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Executive Orders

EXECUTIVE ORDER JBE 16-01

Medicaid Expansion

WHEREAS, access to quality and affordable health care for the working poor is and should be a primary concern of the State of Louisiana;

WHEREAS, the Patient Protection and Affordable Care Act (ACA) allows states to expand Medicaid coverage for adults who are at or below 138 percent of the Federal Poverty Level (FPL) at an increased federal percentage (Federal Medical Assistance Percentage or FMAP);

WHEREAS, the increased FMAP under Medicaid expansion requires the federal government to provide 100 percent of the funding for new enrollees through 2016, 95 percent in 2017, 94 percent in 2018, 93 percent in 2019, and 90 percent thereafter;

WHEREAS, the FMAP for Louisiana in federal FY2017 requires the federal government to provide 62.28 percent of Medicaid funding for services not eligible for enhanced FMAP;

WHEREAS, most of the people affected by Medicaid expansion are gainfully employed, yet have incomes where it is exceedingly difficult to afford health care coverage;

WHEREAS, the 2016 FPL for an individual is \$11,770.00, while the FPL for a family of four is \$24,250.00;

WHEREAS, several hundred thousand Louisiana citizens with incomes at or below 138 percent of the FPL may be eligible for Medicaid, if expanded;

WHEREAS, by failing to expand Medicaid under the previous administration, Louisiana has lost the opportunity to receive over \$3,000,000,000.00 in federal health care funds;

WHEREAS, with Medicaid expansion, Louisiana could realize additional State General Fund savings of nearly \$100,000,000.00 through FY2020;

WHEREAS, expansion of Medicaid will provide access to quality health care and result in significantly better health outcomes for the working poor; and

WHEREAS, expansion of Medicaid will also help to lessen Louisiana's budget crisis and will keep more of the federal tax dollars paid by Louisiana citizens in Louisiana.

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

SECTION 1: The Louisiana Department of Health and Hospitals (DHH) shall create any and all state plan amendments to expand Medicaid to adults who are at or below 138 percent of the FPL with an effective date of no later than July 1, 2016.

SECTION 2: DHH shall adopt any administrative rules necessary to implement this expansion by July 1, 2016.

SECTION 3: DHH and all other executive branch departments shall take any and all actions within their delegated authority necessary to implement this expansion by July 1, 2016.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 12th day of January, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1602#002

EXECUTIVE ORDER JBE 16-02

Carry-Forward Bond Allocation 2015

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. BJ 2008-47 was issued to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2008 and subsequent calendar years;

(2) the procedure for obtaining an allocation of bonds under the ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of No. BJ 2008-47 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of four hundred sixty-four million nine hundred sixty-seven thousand six hundred dollars (\$464,967,600) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission ("SBC") for private activity bond volume limits for the year 2015 ("2015 Ceiling");

WHEREAS, the SBC has verified that allocations were utilized in 2015 in the amount of nine million, nine hundred thousand sixty-eight dollars (\$9,968,000), as allocated in Executive Order No. BJ 15-24, issued on September 15, 2015, to the Louisiana Public Facilities Authority in connection with the financing by Covington Senior Care, LLC for the acquisition, construction, and equipping a senior living community referred to as the Inspired Living of Kenner Project to be located on Loyola Drive, in the Parish of Jefferson, City of Kenner, State of Louisiana, within the boundaries of the Issuer; and;

WHEREAS, Executive Order No. BJ 15-25, issued on October 22, 2015, allocated sixty million dollars (\$60,000,000) from the 2015 ceiling to the Louisiana Community Development Authority to be used in connection with the financing by NFR BioEnergy CT, LLC, for the development and construction of a biorefinery plant which will convert sugarcane waste and other agricultural waste into biocarbon products, including, but not limited to, energy pellets for use as fuel, to be located at the Cora Texas Sugar Mill on Highway 1 South, in the Parish of Iberville, City of White Castle, State of Louisiana, within the boundaries of the Issuer; however, this amount was not utilized and was returned prior to expiration.

WHEREAS, Executive Order No. BJ 15-31, issued on December 30, 2015, allocated sixty million dollars (\$60,000,000) from the 2015 carry-forward to the Louisiana Community Development Authority to be used in connection with financing by NFR BioEnergy CT, LLC, such project now known as American Biocarbon CT, LLC, for the development and construction of a biorefinery plant which will convert sugarcane waste and other agricultural waste into biocarbon products, including, but not limited to, energy pellets for use as fuel, to be located at the Cora Texas Sugar Mill on Highway 1 South, in the Parish of Iberville, City of White Castle, State of Louisiana, within the boundaries of the Issuer. This is based on the return of the previous allocation from Executive Order Number BJ 15-25.

WHEREAS, three hundred ninety-four million nine hundred ninety-nine thousand six hundred dollars (\$394,999,600) of the 2015 Ceiling was not allocated during the 2015 calendar year; and

WHEREAS, The SBC has determined that four hundred fifty-four million nine hundred ninety-nine thousand six hundred dollars (\$454,999,600) of the 2015 Ceiling is eligible for carry-forward, of which sixty million dollars (\$60,000,000) has been allocated, leaving three hundred ninety-four million nine hundred ninety-nine thousand six hundred dollars (\$394,999,600) of the excess 2015 Ceiling eligible and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act.

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for carry-forward filed by the designated issuer, the excess private activity bond volume limit under the 2015 Ceiling is hereby allocated to the following issuer(s), for the following carry-forward project(s), and in the following amount(s):

| Issuer | Carry-Forward Project | Carry-Forward Amount |
|---------------------------------------|---------------------------------------|----------------------|
| Louisiana Housing Corporation | Single Family Housing Revenue Bonds | \$84,999,920 |
| Louisiana Housing Corporation | Multi-Family Housing Revenue Bonds | \$84,999,920 |
| Louisiana Public Facilities Authority | Qualified Residential Rental Property | \$84,999,920 |
| Capital Area Finance Authority | Single Family Housing Revenue Bonds | \$84,999,920 |
| Capital Area Finance Authority | Solid Waste Disposal Revenue Bonds | \$54,999,920 |

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 8th day of February, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1602#077

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

Pre- and Post-Release Family Strengthening Program (LAC 67:III.5577)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5577, Pre- and Post-Release Family Strengthening Program. This Emergency Rule shall be effective January 28, 2016 and shall remain in effect for a period of 120 days.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, adoption of Section 5577 is necessary to govern the collection of eligible rehabilitation expenditures for incarcerated and released male offenders who are fathers of minor children who are members of a needy family that may be counted as maintenance of effort (MOE) for the TANF grant.

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

Title 67

SOCIAL SERVICES

Part III. Economic Stability

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

Chapter 55. TANF Initiatives

§5577. Pre- and Post-Release Family Strengthening Program

A. The department shall enter into a memorandum of understanding with the Louisiana Department of Public Safety and Corrections to collect information on rehabilitation expenditures for the purpose of claiming eligible expenditures that may count as maintenance of effort (MOE) effective Temporary Assistance for Needy Families (TANF) state plan FY 2015 for the TANF grant. The eligible rehabilitation expenditures that may be claimed as MOE are from the following programs.

1. Regional Reentry Program. This program provides the following services to incarcerated male inmates to assist them in becoming self-sustaining individuals upon release: life skills training; two forms of identification; discharge planning which includes residence, employment, and referral/connection to community resources; high school equivalency classes consisting of literacy, adult basic education, and Pre-HiSET classes; and vocational training opportunities. The program attempts to alter the offender's

negative attitudes and behavior through treatment and training, reconnect families separated by incarceration, and prepare the family to receive the offender upon release.

2. Day Reporting Program. This program offers the following services to released offenders with technical violations who face revocation and re-incarceration: non-medical substance abuse treatment, life skills, employment skills, job placement assistance, cognitive-behavioral interventions, and intensive case management. Additional services may also include: adult basic education and HiSET preparation, parenting and family relations skills, anger management, pro-social family and community support, relapse prevention activities, and pro-social cognitive decision-making as needed. The program seeks to identify critical thinking and decision making errors that can be addressed, substance abuse and mental health needs, as well as assist with family dynamics to ensure the offender has the resources and tools necessary to remain in the community and avoid a return to prison.

3. Local Jail Transition Specialists. This program uses mobile transition specialists who provide the following services to incarcerated state offenders that are housed at local jails: parenting and anger management programming, behavior modification, and case management. The program seeks to reduce the offender's risk of recidivism, increase pro-social decision making, and ensure offenders are routed to the regional reentry programs and/or day reporting centers as appropriate.

B. These services meet TANF goal 2, to end dependence of needy parents on government benefits, by promoting job preparation, work, and marriage, and TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services attributable to TANF/MOE funds is limited to incarcerated and released male offenders who are fathers of minor children who are members of a needy family. A family meets financial eligibility if any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefit, Title XIX (Medicaid) Medical Assistance Program benefit, Louisiana Children's Health Insurance Program (LaCHIP) benefit, or Supplemental Security Income (SSI) benefit.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 42:

Suzy Sonnier
Secretary

1602#008

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

START Saving Program (LAC 28:VI.Chapters 1 and 3)

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

This rulemaking redefines maximum allowable account balance, adds computer and computer-related hardware and software to the definition of qualified higher education expenses, permits transfer of account ownership under certain circumstances, includes independent student as a separate account category, and deletes a provision which allows account owners to select the investment options from which disbursements will be made. This rulemaking also deletes a provision that states LATTAs will provide an estimate of the minimum monthly deposit an account must make in order to reach their goals. In addition, this rulemaking makes grammatical, spelling, and technical corrections.

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

This Declaration of Emergency is effective January 4, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST16168ER)

Title 28 EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 1. General Provisions Subchapter A. Tuition Trust Authority

§101. General Provisions

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;
2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;
3. provide the citizens of Louisiana with financing assistance for education and protection against rising postsecondary education costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;
4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and
5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes education savings accounts (ESAs) by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated beneficiary.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for earnings enhancements (EEs) provided by the state to help offset the beneficiary's cost of qualified higher education expenses.

2. The EE amount is determined by the account owner's classification, annual federal adjusted gross income, and total annual deposits of principal.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), amended LR 24:1267 (July 1998), repromulgated LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 28:2334 (November 2002), LR 42:

§103. Legislative Authority

A. Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the *Louisiana Revised Statutes* (R.S. 17:3091-3099.2).

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 42:

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTAs) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the House of Representatives and Senate.

B. The LATTAs administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTAs.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), amended LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 42:

§107. Applicable Definitions

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

Account Owner—the *person(s)*, independent student, organization or group that completes the START Saving Program owner's agreement on behalf of a beneficiary and is

the account owner of record of all funds credited to the account.

Beneficiary—the person named by the account owner in the education savings account (ESA) owner's agreement or the person named by the LATTA when authorized to make such a designation by the owner of an account that is classified under §303.A.6 as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified higher education expenses.

Beneficiary's Family—for the purpose of §303.A.6 one of the following persons:

a. the beneficiary's parent(s) or court ordered custodian; or

b. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or

c. a person who certified that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

Current Value—the value of an education savings account at a given point in time.

a. The current value of fixed earnings investment options includes the accumulated value of the principal deposited, earnings on deposits, earnings enhancements (EEs) allocated to the account and the earnings on the EEs.

b. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit plus the earnings enhancements (EEs) allocated to the account and the earnings on the EEs. This value may be more or less than the amount originally deposited.

Deposits—the actual amount of money received from an account owner for investment in an education savings account. Deposits do not include earnings on deposits nor earnings enhancements or interest earned thereon.

Disabled or Disability—an individual who is considered to be disabled because he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered disabled unless he furnishes proof of the existence thereof in such form and manner as the LATTA may require.

Earnings Enhancement (EE)—a payment allocated to an ESA on behalf of the beneficiary of the account by the state. The amount of the annual EE is calculated based upon the classification of an account, the annual federal adjusted gross income of the account owner, and total annual deposits of principal into an ESA, including deposits in fixed earning and variable earnings options. EEs and the interest earned thereon may only be used to pay the beneficiary's qualified higher education expenses, or portion thereof, at an eligible educational institution and cannot be refunded.

Earnings Enhancement Cap—the maximum of deposits in an account for which earnings enhancements will be paid. The earnings enhancement cap is reached when an account has a current value that is equal to or exceeds five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified

higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the earnings enhancement cap will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Education Savings Account (ESA)—a savings account established by a natural person or a legal entity to pay qualified higher education expenses of the designated beneficiary.

Educational Term—a semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational Institution—either:

a. a state college or university or a technical college or institute or an independent college or university located in this state that is approved by the U.S. Secretary of Education to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

b. a public or independent college or a university located outside this state that is approved by the U.S. secretary of education to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

c. a Louisiana licensed proprietary school, licensed pursuant to R.S. chapter 24-A of title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

False or Misleading Information—a statement or response made by a person, which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings—the placement of all deposits in an ESA, including the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Independent Student—is a person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

a. The HEA defines *independent student* as a student who:

i. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

ii. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm or is currently serving on active duty in the Armed Forces for other than training purposes;

iii. is an orphan, in foster care, or a ward of the court or was in foster care or was a ward of the court until the individual reached the age of 18;

iv. has legal dependents other than a spouse;

v. is a graduate or professional student;

vi. is married; or

vii. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

b. An independent student may only open an account as an account owner if he/she is 18 years or older.

Legal Entity—juridical person including, but not limited to, groups, trusts, estates, associations, organizations, partnerships, and corporations that are incorporated, organized, established, or authorized to conduct business in accordance with the laws of one or more states or territories of the United States. A natural person is not a legal entity.

Louisiana Education Tuition and Savings Fund (the Fund)—is a special permanent fund maintained by the Louisiana state treasurer for the purpose of the START Saving Program and is the account into which all initial deposits made to ESAs are deposited. The fund includes the Savings Enhancement Fund, which is a special sub-account designated to receive earnings enhancements appropriated by the state, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA)—the agency of state government responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident—

a. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

- i. if registered to vote, is registered to vote in Louisiana;
- ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
- iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;
- iv. if earning an income, has complied with state income tax laws and regulations;

b. a member of the Armed Forces stationed outside of Louisiana who claims Louisiana on his/her official DD Form 2058 as his/her legal residence for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation;

c. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

d. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements;

e. a legal entity is considered to be a Louisiana resident if it is incorporated, organized, established or authorized to conduct business in accordance with the laws of Louisiana or registered with the Louisiana Secretary of State to conduct business in Louisiana and has a physical place of business in Louisiana.

Louisiana Tuition Trust Authority (LATTA)—the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account Balance—\$500,000.

Member of the Family (with respect to the designated beneficiary)—

- a. the spouse of such beneficiary; or
- b. an individual who bears one of the following relationships to such beneficiary:

i. a son or daughter of the beneficiary, or a descendant of either;

ii. a stepson or stepdaughter of the beneficiary;

iii. a brother, sister, stepbrother, or stepsister of the beneficiary;

iv. the father or mother of the beneficiary, or an ancestor of either;

v. a stepfather or stepmother of the beneficiary;

vi. a son or daughter of a brother or sister of the beneficiary;

vii. a brother or sister of the father or mother of the beneficiary; or

viii. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or

ix. a first cousin of the beneficiary; or

c. the spouse of an individual listed in Subparagraphs b.i-viii.

Natural Person—a human being.

Other Person (with respect to any designated beneficiary)—any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

Owner's Agreement—the agreement for program participation that the account owner completes and signs. It incorporates, by reference, R.S. 17:3091 et seq., and the rules promulgated by the LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

Person—a human being or a juridical entity.

Qualified Higher Education Expenses—

a. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and

b. room and board; and

c. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; and

d. for the calendar years 2009 and 2010 only, expenses paid or incurred for the purchase of any computer technology or equipment or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

e. for calendar year 2015 and thereafter, expenses for the purchase of computer or peripheral equipment, computer software, or Internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

Rate of Expenditure—the rate [see §309.B] per educational term at which the EEs may be disbursed from an

ESA to pay for the beneficiary's qualified higher education expenses at an eligible educational institution. For each disbursement requested by an account owner, EEs and the earnings thereon will be disbursed from the account in the same ratio that they bear to the current value of the account.

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

Refund Recipient—the person designated by the account owner in the START Saving Program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner or the beneficiary.

Room and Board—the reasonable cost for the educational term incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the maximum amount included for room and board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 108711) as determined by the eligible educational institution for such period, or if greater, the actual invoice amount the student residing in housing owned or operated by the eligible education institution is charged by such institution for room and board.

Saving Enhancement Fund—the sub-account established within the Tuition and Savings Fund by the State Treasurer to receive funds appropriated by the legislature or donated from any other source for the purpose of funding EEs.

Scheduled Date of First-Enrollment (for a dependent beneficiary)—the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *earnings enhancement cap*.

Special Needs Services and Beneficiary—services provided to a beneficiary because the student has one or more disabilities.

Trade Date—the date that a deposit to an investment option that includes variable earnings is assigned a value in units, the date a disbursement or refund from an investment option that includes variable earnings is assigned a value, or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

Tuition—the mandatory educational charge required as a condition of enrollment and is limited to undergraduate enrollment. It does not include non-residence fees, laboratory fees, room and board or other similar fees and charges.

Variable Earnings—refers to that portion of funds in an ESA, invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

Variable Earnings Transaction Fund—the subaccount established within the Louisiana Education Tuition and Savings Fund to receive funds as directed by rule.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1491 (August 2009), LR 38:3162 (December 2012), LR 42:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An education savings account (ESA) is established on behalf of a designated beneficiary to provide the funding necessary for the beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. ESAs may offer investment options that provide either fixed earnings or variable earnings.

1. The account owner classified under §303.A.1, 2, 3, 4, and 5 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §303.A.6 may designate the beneficiary in the owner's agreement, provided the beneficiary is not a member of the account owner's family, or authorize the LATTA to select a beneficiary for the account.

3. A beneficiary selected by the LATTA must meet the following criteria:

a. the beneficiary is a Louisiana resident;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. demonstrate superior early academic preparation in the third grade by achieving a score on the Iowa Tests of Basic Skills, Stanford 9 Test or TerraNova Test that is in the top two quartiles; and

e. the guidelines provided by the account owner, if any; provided such guidelines are lawful.

4. Procedure for Selection (Reserved)

B. Program Enrollment Period. An account may be opened and an eligible beneficiary may be enrolled at any time during the calendar year.

C. Completing the Owner's Agreement

1. This agreement must be completed, in full, by the account owner.

2. The account owner shall designate a beneficiary, except as provided in Paragraph A.2 above.

3. The account owner may designate a limited power of attorney to another person who would be authorized to act on the account owner's behalf, in the event the account owner becomes incapacitated.

4. Transfer of account ownership is only permitted as set forth in §313.

D. Agreement to Terms. Upon executing an owner's agreement, the account owner agrees to the following statements.

1. Admission to a Postsecondary Educational Institution—that participation in the START Program does not guarantee that a beneficiary will be admitted to any institution of postsecondary education.

2. Payment of Qualified Higher Education Expenses—that participation in the START Program does not guarantee that the full cost of the beneficiary's qualified higher education expenses will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student.

3. Maintenance of Continuous Enrollment—that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion.

4. Guarantee of Redemption Value—that the LATTA guarantees payment of the redemption value of an ESA that is invested in fixed earnings, subject to the limitations imposed by R.S. 17:3098; however, the LATTA does not guarantee the value of an ESA that is invested in variable earnings.

5. Conditions for Payment of Education Expenses—that payments for qualified higher education expenses under the START Saving Program are conditional upon the beneficiary's acceptance and enrollment at an eligible educational institution.

6. Fees

a. That except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account at standard fees established by the LATTA.

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

c. That financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

7. That an account whose owner is a legal entity or is classified under §303.A.6 cannot be terminated and the funds deposited in the account will not be refunded to the account owner.

8. That an account owner who is a legal entity or is classified under §303.A.6, can change the beneficiary of an account to one or more persons who are not members of the family of the beneficiary in accordance with §313.A.4.c; however, in such case:

a. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

b. the EEs and interest thereon will not be transferred to the new beneficiary (Note that the deposit(s) will be eligible for EEs for the year of the deposit.);

c. the provisions of §301.A.2 shall apply to account owners classified in accordance with §303.A.6.

9. Only the account owner or the beneficiary may be designated to receive refunds from the account owned by an

account owner who is a natural person other than a natural person classified as an account owner under §303.A.6. In the event of the death of the account owner when the account owner is designated to receive the refund and there is no substitute account owner named, the refund shall be made to the account owner's estate.

10. That in the event an account owner who is a legal entity classified as an account owner under §303.A.4 or 5 is dissolved, the beneficiary will become the owner of the account.

11. That in the event an other person classified as an account owner under §303.A.6 dies or is dissolved, the beneficiary will become the account owner, provided that, all the restriction provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority is authorized to designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.6.

E. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be accepted upon receipt.

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

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

1. be a United States citizen; or

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

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

G. Residency Requirements

1. On the date an account is opened, either the account owner or his designated beneficiary must be a *Louisiana resident*, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

a. his Social Security number;

b. the designated beneficiary's Social Security number;

c. the beneficiary's date of birth;

d. the familial relationship between the account owner and the designated beneficiary, if any;

e. the account owner's prior year's federal adjusted gross income as reported to the Internal Revenue Service; and

f. in the case of an account owner classified under §303.A.6:

i. the Social Security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

ii. if applicable, proof that the beneficiary is a ward of the court; or

iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. By signing the owner's agreement, the account owner who is classified under §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, certifies that:

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

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

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

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

b. the person signing on behalf of an account owner who is a legal entity certifies that:

i. the account owner is a *legal entity* as defined in rule and the application;

ii. he or she is the designated agent of the legal entity;

iii. he or she is authorized to take any action permitted the account owner;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner;

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

vi. if the beneficiary is not a Louisiana resident, the legal entity fulfills the definition of *Louisiana resident* as found in rule and the application;

c. the natural person classified as an account owner under §303.A.6 certifies that:

i. the beneficiary is a Louisiana resident;

ii. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

iii. the beneficiary is not a member of the account owner's family nor a member of the family of any member

or employee of the authority or the Office of Student Financial Assistance;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner; and

v. the information provided in the application is true and correct.

4. Social Security numbers and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting and to access individual account information for administrative purposes (see §315).

I. Number of Accounts for a Beneficiary. There is no limit on the number of ESAs that may be opened for one beneficiary by different account owners; however, the cumulative credits in all accounts for the same beneficiary may not exceed the maximum allowable account balance for that beneficiary and the cumulative credits in all ESAs for the same beneficiary will be used to determine when these accounts are fully funded and are no longer eligible for EEs.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 36:313 (February 2010), LR 41:669 (April 2015), LR 42:

§303. Account Owner Classifications

A. An account owner shall be classified by the authority under one of the following classifications:

1. a person or persons determined by the authority to be the parent, grandparent, or court ordered custodian of the person being designated as beneficiary of the account or who claim the person being designated as beneficiary as a dependent on their federal income tax return, and, at the time of the initiation of the agreement, the person or beneficiary is a resident of the state; or

2. a person determined by the authority to be a member of the family of the beneficiary and, at the time of the initiation of the agreement, the person or the beneficiary is a resident of the state; or

3. an independent student who is a resident of the state;

4. any other person and, at the time of the initiation of the agreement, the beneficiary is a resident of the state; or

5. any other person who, at the time of the initiation of the agreement, is a resident of the state and the beneficiary is not a resident of the state;

6. any other person or any government entity, and at the time of the initiation of the agreement:

a. the beneficiary is a resident of the state;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary must be eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. the deposits to the account are an irrevocable donation by the owner.

B. In order to qualify as an account owner in any classification, a natural person, to include an independent student, must be of the age of majority under Louisiana law.

C. Account owner classification is made at the time of the initiation of the agreement. Changes in the residency of the account owner or beneficiary after the initiation of the agreement do not change the account owner's classification.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:1879 (November 2001), amended LR 28:779 (April 2002), LR 28:2334 (November 2002), LR 30:787 (April 2004), LR 42:

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See fees in §301.D.6.)

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

4. A lump sum deposit may not exceed the maximum allowable account balance (see §107).

B. Deposit Options

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

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

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

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

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

2. Account owners are encouraged to maintain a schedule of regular monthly deposits.

3. Through completion of schedule D of the Louisiana state income tax return, account owners may designate all or any portion of a state income tax refund due them as a deposit to their ESA. If the account owner has established more than one ESA, the amount of the refund identified on schedule D of the Louisiana state income tax return shall be divided by the number of accounts owned and an equal share shall be deposited into each such account.

C. Limitations on Deposits

1. All deposits must be rendered in amounts of at least \$10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §305.B.1.

2. Once the balance in an account reaches the earnings enhancement cap (see §107), it will no longer be considered

for EEs, regardless of the total amount of annual deposits that may be subsequently made to the account.

3. Once the cumulative contributions, earnings on contributions, EEs and interest accrued thereon has reached or exceeded the maximum allowable account balance (see §107), principal deposits will no longer be accepted to the account until a qualified distribution is made which reduces the account balance below the maximum allowable account balance.

D. Investment Options

1. The state treasurer shall select fixed earnings and variable earnings investment options.

2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The account owner:

a. shall select one investment option in completing the owner's agreement; and

b. beginning December 1, 2009, may select the same or a different investment option at the time of each deposit.

4. Changing the Investment Option

a. Through 2008, the investment option can be changed only once in any 12-month period.

b. For the 2009 calendar year, the investment option may be changed at any time, but no more than two times.

c. Beginning December 1, 2009, if an ESA has funds in two or more investment options:

i. each option in the account may be changed to one different option or allowed to remain the same;

ii. all funds in each option changed must be transferred;

iii. funds in one option may not be moved to more than one option;

iv. all changes in investment options must take place in one transaction;

v. whether the funds are moved from one option or all options, the change is considered the one per calendar year investment option change.

d. Beginning the 2010 calendar year and thereafter, the investment option may be changed one time each calendar year.

5. Once a selection is made, all deposits shall be directed to the last investment option selected.

E. Effective Date of Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.

b. Deposits made by electronic funds transfer through the Automated Clearing House (ACH) Network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer, including deposits made by transferring funds from a variable earnings option in which they are currently

deposited to another option, will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits for investment options that include variable earnings which are received via check or electronic funds transfer through the Automated Clearing House Network will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior to the trade date shall be deposited in the Variable Earnings Transaction Fund.

4. Deposits received on weekends and holidays will be considered received on the next business day.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:

§307. Allocation of Earnings Enhancements (EEs)

A. EEs are state-appropriated funds allocated to an ESA on behalf of the beneficiary named in the account.

1.a. The EEs for account owners who are classified under §303.A.1, 2 and 3 are calculated based upon the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal.

b. The EEs for account owners who are classified under §303.A.6 are calculated based:

i. upon the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal; or

ii. if the beneficiary is a ward of the court, using the highest EE available and the account owner's total annual deposits of principal.

2. Although allocated to individual accounts, EEs are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay qualified higher education expenses at an eligible education institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income.

1.a. For account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities nor other persons classified as account owners under §303.A.6), the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EE allocation.

b. For account owners who are classified under §303.A.6, the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EEs or proof that the beneficiary is a ward of the court.

2.a. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.1, 2, 3, or 4 must:

i. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the account owner's federal adjusted gross income; or

ii. provide the LATTA a copy of the account owner's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs.

b. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.6 must:

i. provide authorization from the beneficiary's family for the LATTA to access the beneficiary's family's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the federal adjusted gross income of the beneficiary's family; or

ii. provide the LATTA a copy of the beneficiary's family's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

3.a. In completing the owner's agreement, account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) authorize the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the account owners' federal adjusted gross income. In the event the account owner does not file tax information with the Louisiana Department of Revenue, they must provide the LATTA with:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement as to why no income tax filing was required of the account owner.

b. In completing the owner's agreement, account owners who are classified under §303.A.6 provide authorization from the beneficiary's family for the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the beneficiary's family's federal adjusted gross income. In the event the beneficiary's family does not file tax information with the Louisiana Department of Revenue, the beneficiary's family must provide:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement that the beneficiary lives with them, that they provide more than 50 percent of the beneficiary's support and an explanation as to why the beneficiary's family was not required to file an income tax return; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

4. EEs at the rate prescribed in §307.D cannot be allocated to an ESA unless the LATTA has received verification of an account owner's federal adjusted gross income by the deadline contained in §307.B.5. Interest on

EEs will not accrue to the benefit of an ESA until the LATTA has allocated the EEs to the account.

5. If an account owner is classified in §305.A.1 or 2 and the tax documents required by §307.B.2 are not received by February 15 immediately following the year for which the beneficiary of the account is being considered for EEs, as an exception to §307.D, the account shall be allocated EEs for the year being considered at the EE rate shown in §307.D for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

6. Example. An account owner has made deposits in a START account for a beneficiary during calendar year 2010 and desires to receive the highest EE rate authorized for those deposits. If the account owner did not file a Louisiana income tax return for the tax year 2009 or is notified by the LATTA that the Louisiana Department of Revenue could not validate his federal adjusted gross income, he must submit the tax documents for tax year 2009 required by §307.B.2.b so that they are received by the LATTA no later than February 15, 2011, or his EE rate will be defaulted to the rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

C. Earnings Enhancement Rates

1. The EE rates applicable to an ESA under §303.A.1, 2, 3 and 6 are determined by the federal adjusted gross income of the account owner or the beneficiary's family, as applicable, according to the following schedule.

| Reported Federal Adjusted Gross Income | Earnings Enhancement Rate |
|--|---------------------------|
| 0 to \$29,999 | 14 percent |
| \$30,000 to \$44,999 | 12 percent |
| \$45,000 to \$59,999 | 9 percent |
| \$60,000 to \$74,999 | 6 percent |
| \$75,000 to \$99,999 | 4 percent |
| \$100,000 and above | 2 percent |

2. The availability of EEs to be allocated to ESAs is subject to an appropriation by the Louisiana Legislature.

3. In the event that sufficient EEs are not appropriated during any given year, the LATTA shall reduce EE rates, pro rata, as required to limit EEs to the amount appropriated.

D. The EE rates applicable to an ESA established by a person or persons identified in §303.A.4 shall be fixed at the EE rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

E. An ESA established by an authorized account owner identified in §303.A.5 shall not be eligible for EEs.

F. Restrictions on allocation of EEs to ESAs. The allocation of EEs is limited to ESAs which:

1. have not reached the earnings enhancement cap (see §107); and

2. have an account owner who falls under one of the classifications described in §303.A.1, 2, 3, 4, or 6.

G. Frequency of Allocation of EEs to ESAs. EEs will be allocated annually, posted to the accounts as of December 31 of the year earned and reported to account owners before March 31 following the allocation.

H. Rate of Interest Earned on EEs. The rate of interest earned on EEs shall be the rate of return earned on the

Savings Enhancement Fund as reported by the state treasurer.

I. Restriction on Use of Earnings Enhancements

1. EEs, and any interest which may accrue thereon, may only be expended in payment of the beneficiary's qualified higher education expenses, or a portion thereof, at an eligible educational institution.

2. EEs, although allocated to a beneficiary's account and reported on the account owner's annual statement, are assets of the state of Louisiana and are not the property of the account owner until disbursed to pay a beneficiary's qualified higher education expenses at an eligible education institution.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:1886 (September 2008), LR 36:2550 (November 2010), LR 42:

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Request for Disbursement

1. For each term the account owner intends to fund the beneficiary's qualified higher education expenses, the account owner shall submit a request for disbursement.

2. The request for disbursement must include:

- a. the START account number;
- b. the account owner's name, address, Social Security number and signature (may be electronic);
- c. the beneficiary's name, address, and Social Security number;
- d. the amount to be disbursed and to whom; and
- e. the name and address of the eligible educational institution.

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

4. If there is more than one account with the same beneficiary, each account owner requesting a disbursement must complete a request for disbursement and the disbursements shall be made from each account, in turn, in the order the disbursement requests were received.

5. Disbursements from all accounts with the same beneficiary shall not exceed the qualified higher education expenses of the beneficiary for the school attended.

6. Disbursements may be made to the eligible educational institution, account owner, and/or beneficiary. If all of the disbursement is made to the account owner and/or the beneficiary and LOSFA determines that the beneficiary is not enrolled in an eligible educational institution during the semester or term for which the disbursement was intended, LOSFA shall notify the account owner that the disbursement will constitute a refund for state and federal income tax purposes unless returned to the START account. If the disbursement is not returned to the account within 60 days of the original notice, LOSFA shall recover the amount of the EEs and interest thereon included in the disbursement from any principal and interest remaining in the account, and, in

the authority's sole discretion, may refund any balance remaining thereafter and close the account.

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

B. Rate of Expenditure

1. As authorized by the account owner, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and EEs (including earnings on EEs) in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The account owner may not withdraw an amount in excess of the beneficiary's qualified higher education expenses for a specific term of enrollment or the value of the account, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the beneficiary's enrollment and the institution's receipt of a START disbursement, the institution may credit the student's account. Should the amount received exceed the amount owed to the institution, the institution shall disburse the balance to the beneficiary, unless the beneficiary directs otherwise.

2. If the designated beneficiary of an ESA account enrolls, but fails to attend or withdraws from the institution prior to the end of the educational term and disbursements from the ESA were made to the eligible educational institution to pay all or part of his qualified higher education expenses for that educational term, an institutional refund to the ESA may be required.

3. If any refund is due the beneficiary from the eligible educational institution, a pro rata share of any refund of qualified higher education expenses equal to that portion of the qualified higher education expenses paid by disbursements from the ESA shall be made by the eligible educational institution to the LATTA.

4. The LATTA will credit any refunded amount to the appropriate ESA.

D. Advance Enrollment. A beneficiary may enroll in an eligible educational institution prior to his scheduled date of first-enrollment (see §107) and utilize ESA funds; however, a beneficiary may not utilize funds from an ESA prior to one year from the date the beneficiary made the first deposit opening the account.

E. Part-Time Attendance and Nonconsecutive Enrollment. A beneficiary may utilize funds in an ESA for enrollments which are nonconsecutive and for part-time attendance at an eligible educational institution, including enrollment in college classes while still in high school. Room and board is only a qualified higher education expense for students who are enrolled at least half -time; however, room and board is not a qualified higher education expense for students who are enrolled in college classes while still in high school.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 42:

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

A. Account Termination

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, may terminate an account at any time.

2. The LATTA may terminate an account in accordance with this Subsection, §309.A.6 and §311.E.

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

4. The LATTA may terminate an account if the beneficiary dies and a new beneficiary is not named within 60 days of the death.

5. The LATTA may terminate an account if the beneficiary becomes disabled and a new beneficiary is not named by the time the beneficiary who has become disabled reaches age 25.

6. The account owner who is a legal entity or is classified under §303.A.6, may not terminate an account; however, the account owner who is a legal entity or is classified under §303.A.6 may designate a substitute beneficiary in accordance with §313.A.5.b.

B. Refunds

1. A partial refund of an account may only be made as described in §309.E.1 and §311.E.3.

2. All other requests for refund may result in the termination of the account and in the refund of:

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

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

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

Any increase in the value of an account invested in a variable earnings option over the amount deposited shall be forfeited by the account owner and deposited in the Variable Earnings Transaction Fund, if the account was invested in a variable earnings option and terminated within 12 months of the date the account was opened;

d. the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, if the account has been open for 12 or more months.

3. No refunds shall be made to an account owner who is a legal entity classified under §303.A.4 or 5. If an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is terminated by the LATTA or by the account owner in accordance with §311.E or F, the refund will be made to the beneficiary or to the beneficiary's estate if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §303.A.6. If such an account is terminated by the LATTA in accordance with §311.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.6,

including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

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

C. Designation of a Refund Recipient

1. In the owner's agreement, the account owner who is a natural person, except one who is classified under §303.A.6, may designate himself or the beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the beneficiary receives any refund of principal and earnings from the account, the tax consequences must be determined by the recipient.

4. The beneficiary of an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is automatically designated as the refund recipient.

5. Funds in an account classified under §303.A.6 shall not be refunded.

D. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided *false or misleading information* (see §107).

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

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

E. Voluntary Termination of an Account

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

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

3. Except for accounts classified in accordance with §303.A.6, accounts may be terminated and fully refunded for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary of the account, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. Refunds made under this §311.E.3 are currently exempt from additional federal taxes.

F. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

G. Refund Payments. Payment of refunds for voluntary termination under §311.E or partial refunds of accounts pursuant to §311.E.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the calendar year preceding the year in which the request to terminate an account is made. Interest earned in excess of \$10 during the calendar year of termination will be refunded within 45 days of the date the state treasurer announces the interest rate for the preceding calendar year. Interest earned of \$10 or less during the calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

H. Rollovers

1. Rollovers among ESAs of the Same Account Owner

a. Beginning October 1, 2009, an account owner may rollover any part or all of the value of an ESA to another ESA if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. If the current value of an ESA is transferred, all EEs and earnings thereon shall be included in the transfer.

2. Rollover to another Qualified Tuition Program

a. An account owner may request a rollover of the current value of the account less EEs and earnings thereon to another qualified tuition program.

b. EEs and the earnings thereon allocated to an ESA that is rolled over to another qualified tuition program are forfeited.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR

27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:492 (March 2010), LR 36:2551 (November 2010), LR 39:2238 (August 2013), LR 42:

§313. Substitution, Assignment, and Transfer

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

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

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

3. if the substitute beneficiary is not a member of the family of the previous beneficiary:

a. and the account owner is a natural person classified under §303.A.1-5, the account must be refunded to the account owner and a new account must be opened;

b. and the account owner is a legal entity classified under §303.A.4 or 5, a new account shall be opened in the name of the new beneficiary; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the EEs and interest thereon for an account whose owner is classified under §303.A.4 will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

c. and the account owner is classified under §303.A. 6, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §303.A.6; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the EEs and interest thereon will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

iii. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

B. Substitution/Transfer of Account Ownership. The ownership of an ESA is transferable only with the written approval of the LATTA and only as follows.

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, may designate a person who will become the substitute account owner in the event of the original account owner's death. Eligibility for EEs will be based on the substitute account owner's classification at the time of the original account owner's death.

2. In the event of the death of an account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, who has not named a substitute account owner, the account shall be terminated and the account shall be refunded to the beneficiary, if designated to receive the refund by the account owner, or the account owner's estate.

3. An account owner who is a legal entity classified under §303.A.4 or 5 may indicate in the owner's agreement that the account shall be transferred to the beneficiary of the account upon his 18th birthday, or upon his enrollment in an eligible postsecondary institution full time, whichever is later. If the account owner transfers the account in accordance with this section, disbursements may only be made for payment of the qualified higher education expenses of the beneficiary.

4. In the event of the dissolution of an account owner who is a legal entity classified as an account owner under §303.A.4 or 5, the beneficiary shall become the substitute account owner. If the account owner who is a legal entity classified as an account owner under §303.A.4 or 5 is dissolved, the beneficiary designated to receive the refund has died, and there is no substitute beneficiary named, the refund shall be made to the beneficiary's estate.

5. In the event of the death or dissolution of another person classified as an account owner under §303.A.6, the beneficiary shall become the substitute account owner, provided that all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible educational institution by age 25, and no substitute beneficiary has been designated by the account owner, the LATTA shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

C. Assignment of Account Ownership. Ownership of an ESA cannot be assigned.

D. Changes to the Owner's Agreement

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001), LR 28:780 (April 2002), LR 30:791 (April 2004), LR 42:

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each account owner an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year;

b. total principal and interest accrued to the statement date; and

c. total EEs and interest thereon allocated to the account as of the statement date.

2. EEs shall be allocated annually and reported after March 1, following the account owners' required disclosure of their reported federal adjusted gross income for the year immediately preceding the year in which the beneficiary of the account is being considered for an EEs.

3. The account owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to account owners after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the fund as reported by the state treasurer and approved by the LATTA.

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

5. For the year ending December 31, 2001, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.33 percent.

6. For the year ending December 31, 2001, the Savings Enhancement Fund earned an interest rate of 6.38 percent.

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Savings Enhancement Fund earned an interest rate of 5.91 percent.

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Savings Enhancement Fund earned an interest rate of 5.17 percent.

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Savings Enhancement Fund earned an interest rate of 5.12 percent.

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Savings Enhancement Fund earned an interest rate of 4.92 percent.

15. For the year ending December 31, 2006, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.11 percent.

16. For the year ending December 31, 2006, the Savings Enhancement Fund earned an interest rate of 4.67 percent.

17. For the year ending December 31, 2007, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.28 percent.

18. For the year ending December 31, 2007, the Savings Enhancement Fund earned an interest rate of 5.25 percent.

19. For the year ending December 31, 2008, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.65 percent.

20. For the year ending December 31, 2008, the Savings Enhancement Fund earned an interest rate of 4.39 percent.

21. For the year ending December 31, 2009, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.22 percent.

22. For the year ending December 31, 2009, the Savings Enhancement Fund earned an interest rate of 3.08 percent.

23. For the year ending December 31, 2010, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.69 percent.

24. For the year ending December 31, 2010, the Savings Enhancement Fund earned an interest rate of 2.56 percent.

25. For the year ending December 31, 2011, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.53 percent.

26. For the year ending December 31, 2011, the Savings Enhancement Fund earned an interest rate of 2.47 percent.

27. For the year ending December 31, 2012, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.52 percent.

28. For the year ending December 31, 2012, the Savings Enhancement Fund earned an interest rate of 2.57 percent.

29. For the year ending December 31, 2013, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.168 percent.

30. For the year ending December 31, 2013, the Savings Enhancement Fund earned an interest rate of 1.715 percent.

31. For the year ending December 31, 2014, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.08 percent.

32. For the year ending December 31, 2014, the Savings Enhancement Fund earned an interest rate of 1.31 percent.

C. Refunded Amounts

1. Interest earned on an ESA which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

D. Annual report:

1. the account owner of an ESA will be notified annually, in writing, of the following:

- a. the maximum allowable account balance; and
- b. the minimum recommended account balance which is an amount equal to five times the qualified higher education expenses for the eligible educational institution designated on the owner's agreement, projected to the date of the beneficiary's eighteenth birthday; or

2. if the account owner changes the institution designated on the owner's agreement, a revised minimum recommended account balance will be calculated and the account owner will be notified of any change.

E. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to account owners for public comment prior to the adoption of final rules.

F. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

G. Individual Accounts. The LATTA will maintain an individual account for each beneficiary, showing the redemption value of the account.

H. Confidentiality of Records. All records of the LATTA identifying account owners and designated beneficiaries of ESAs, amounts deposited, expended or refunded, are confidential and are not public records.

I. No Investment Direction. No account owner or beneficiary of an ESA may direct the investment of funds credited to an account, except to make an annual election among investment options that offer fixed earnings, variable earnings or both. Deposits will be invested on behalf of the START Savings Program by the state treasurer.

J. No Pledging of Interest as Security. No interest in an ESA may be pledged as security for a loan.

K. Excess Funds

1. Principal deposits to an ESA are no longer accepted once the account total reaches the maximum allowable account balance (see §305.C); however, the principal and interest earned thereon may continue to earn interest and any EEs allocated to the account may continue to accrue interest.

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

L. Withdrawal of Funds. Funds may not be withdrawn from an ESA except as set forth in §309 and §311.

M. NSF Procedure

1. A check received for deposit to an ESA which is returned due to insufficient funds in the owner's account on which the check is drawn, will be redeposited and processed a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer which is not honored by the financial institution on which it was drawn subsequent to the trade date shall be forfeited by the account owner and deposited into the Variable Earnings Transaction Fund.

N. Effect of a Change in Residency. On the date an account is opened, either the account owner or beneficiary must be a resident of the state of Louisiana (see §301.G); however, if the account owner or beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the owner's agreement.

O. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the beneficiary may experience reduced eligibility for aid from these programs.

P. Change in Projected School of Enrollment

1. The account owner may redesignate the beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's EE cap, the account owner will be notified.

Q. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

R. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

S. Variable Earnings Transaction Fund

1. Monies in the Variable Earnings Transaction Fund shall be used to pay any charges assessed to the START Saving Program by a financial institution and to pay any loss of value between the purchase and redemption of units in a variable earnings option that are incurred when a check or ACH transfer is dishonored after the trade date by the financial institution on which it was drawn.

2. After the payment of expenses as provided in Paragraph 1, above, the LATTA may declare monies remaining in the Variable Earnings Transaction Fund as surplus. Such surplus shall be appropriated to the Saving Enhancement Fund to be used as EEs.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:

Robyn Rhea Lively
Senior Attorney

1602#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Pharmacy

Compounding for Office Use for Veterinarians (LAC 46:LIII.2535)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the compounding of drugs by pharmacies, to restore the capability of pharmacies to compound preparations intended for administration by veterinarians without the necessity of a patient-specific prescription.

Pursuant to the adoption of the Drug Quality and Security Act (DQSA) by the U.S. Congress in November 2013, the board amended its rules to remove the capability of pharmacies to compound drug preparations intended for administration by practitioners without the necessity of a patient-specific prescription. With the further clarification from the federal Food and Drug Administration that the DQSA only applied to compounding of drugs for human use, and further, did not apply to the compounding of drugs for veterinary use, in combination with requests from veterinarians for the restoration of the authority for pharmacies to compound drugs for office use by veterinarians, the board has determined it appropriate to restore the authority for pharmacies to compound drugs for office use by veterinarians.

The board now seeks to amend its rules to authorize pharmacies to compound drugs for office use for veterinarians only and not for human use. In their petition to the board, the veterinarians presented examples of medications that are needed for emergency use in the veterinarian's office. Since the time required for promulgation of the rule change is of such duration that a veterinarian may not be able to obtain a compounded medication necessary to save an animal's life, the board proposes to enable the temporary authority for pharmacies to compound medications for office use by veterinarians through an Emergency Rule.

The initial Emergency Rule was made effective June 1, 2015. The board published its Notice of Intent and conducted a public hearing on August 26 to receive comments and testimony on the proposed Rule. The board considered those comments during their November 18 meeting and determined additional language in the proposed Rule is necessary. The board directed the development of that new language for its consideration at its next meeting in February 2016. Since the Emergency Rule will expire before that time, the board has directed the re-issuance of the Emergency Rule, with no changes to the content of the proposed Rule.

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 January 15, 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 25. Prescriptions, Drugs, and Devices Subchapter C. Compounding of Drugs §2535. General Standards

A. - D. ...

E. Veterinarian Administered Compounds, also referred to as Pharmacy-Generated Drugs

1. Upon receipt of a valid non-patient-specific medical order from a licensed veterinarian, the pharmacy may compound a preparation intended for administration to an animal patient by the veterinarian.

2. These preparations may not be distributed to any other third party by the pharmacy, nor may these preparations be further re-sold or distributed by the veterinarian ordering the preparation from the pharmacy.

3. This authorization is primarily intended to facilitate the preparation of medications needed for emergency use in a veterinary office practice. Given the limited application of this authorization, which allows these products to be prepared using less rigorous standards applicable to compounding as opposed to the more rigorous standards applicable to manufacturing processes, the compounding pharmacy preparing these products shall be limited in the amount of such products they can prepare.

a. No Louisiana-licensed pharmacy may distribute any amount of practitioner-administered compounds in excess of 5 percent of the total amount of drug products dispensed and/or distributed from their pharmacy.

b. The 5- percent limitation shall be calculated on a monthly basis and shall reference the number of dosage units.

c. For those Louisiana-licensed pharmacies located outside Louisiana, the total amount distributed and/or dispensed shall reference the pharmacy's total business within the state of Louisiana.

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

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

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

G. Labeling of Compounded Preparations

1. For patient-specific compounded preparations, the labeling requirements of R.S. 37:1225, or its successor, as well as §2527 of this Chapter, or its successor shall apply.

2. For veterinarian administered compounds, the label shall contain, at a minimum, the following data elements:

a. pharmacy's name, address, and telephone number;

b. veterinarian's name;

c. name of preparation;

d. strength and concentration;

e. lot number;

- f. beyond use date;
 - g. special storage requirements, if applicable;
 - h. identification number assigned by the pharmacy;
- and
- i. name or initials of pharmacist responsible for final check of the preparation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), LR 29:2105 (October 2003), effective January 1, 2004, LR 41:97 (January 2015), LR 42:

Malcolm J. Broussard
Executive Director

1602#003

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:V.2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments for mental health emergency room extensions (MHEREs) in order to change the deadline for hospitals that established a MHERE to sign an agreement to participate for reimbursement of uncompensated care costs for psychiatric services (*Louisiana Register*, Volume 36, Number 8).

As a result of a budgetary shortfall in state fiscal year 2015, the department determined that it was necessary to amend the provisions governing DSH payments to eliminate payments for MHEREs (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated in order to continue the provisions of the March 5, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective March 2, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing disproportionate share hospital payments for mental health emergency room extensions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

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

§2711. Mental Health Emergency Room Extensions

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 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1781 (August 2010), repealed 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 Medicaid.Policy@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

1602#059

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing**

Early and Periodic Screening, Diagnosis and Treatment
School-Based Nursing Services
(LAC 50:XV.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule which adopted provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (*Louisiana Register*, Volume 39, Number 10).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recently issued guidance which removed the requirement that school-based nursing services be included on the individualized education plan (IEP) to be reimbursed by Medicaid. As a result of the CMS guidance, the department promulgated an Emergency Rule which amended the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement (*Louisiana Register*, Volume 41, Number 6). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule. This action is being taken to avoid CMS sanctions, promote the health and welfare of Medicaid eligible recipients, and to assure a more efficient and effective delivery of health care services.

Effective February 28, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid coverage of school-based nursing services covered under the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 95. School-Based Nursing Services

§9501. General Provisions

A. - B. ...

C. School-based nursing services shall be covered for all recipients in the school system.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended 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

1602#060

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reinstatement of Additional Payments for
Hemophilia Blood Products (LAC 50:V.965)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.965 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, Volume 34, Number 10) and other rare bleeding disorders (*Louisiana Register*, Volume 35, Number 4).

As a result of a budget shortfall in state fiscal year 2015, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-

rural, non-state hospitals to eliminate the additional reimbursements for hemophilia blood products purchased by hospitals (*Louisiana Register*, Volume 41, Number 3).

Act 16 of the 2015 Regular Session of the Louisiana Legislature allocated funding to the department to reinstate the additional reimbursements for hemophilia related blood products. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to reinstate reimbursements for costs incurred in the purchase of blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for, hemophilia (*Louisiana Register*, Volume 41, Number 7).

This Emergency Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule. This action is being taken to avoid imminent peril to the public health, safety and welfare of Medicaid recipients by ensuring that they have access to medically necessary hospital services and medications for the treatment of hemophilia.

Effective February 28, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to reinstate additional reimbursements for hemophilia blood products.

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

A. Effective for dates of service on or after July 1, 2015, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

B. Hospital Qualifications. To qualify for the additional reimbursement, the hospital must:

1. be classified as a major teaching hospital and contractually affiliated with a university located in Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a comprehensive hemophilia care center;

2. have provided clotting factors to a Medicaid recipient who:

a. has been diagnosed with hemophilia or other rare bleeding disorders for which the use of one or more clotting factors is Food and Drug Administration (FDA) approved; and

b. has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. have actual cost exceeding \$50,000 for acquiring the blood products used in the provision of clotting factors during the hospitalization;

a. actual cost is the hospital's cost of acquiring blood products for the approved inpatient hospital dates of

service as contained on the hospital's original invoices, less all discount and rebate programs applicable to the invoiced products.

C. Reimbursement. Hospitals who meet the qualifications in §965.B may receive reimbursement for their actual costs that exceed \$50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. The request for reimbursement shall be submitted in a format specified by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2176 (October 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:674 (April 2009), LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, Louisiana 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

1602#061

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative (*Louisiana Register*, Volume 39, Number 11). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient psychiatric hospital services provided by non-state

owned hospitals participating in public-private partnerships (*Louisiana Register*, Volume 39, Number 1). In April 2013, the department promulgated an Emergency Rule to continue the provisions of the January 2, 2013 Emergency Rule (*Louisiana Register*, Volume 39, Number 4).

The department amended the provisions governing the reimbursement methodology for inpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state-owned and operated facility to establish an interim per diem reimbursement (*Louisiana Register*, Volume 39, Number 4). In June 2013, the department determined that it was necessary to rescind the January 2, 2013 and the May 3, 2013 Emergency Rules governing Medicaid payments to non-state owned hospitals for inpatient psychiatric hospital services (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the provisions of the April 15, 2013 Emergency Rule in order to revise the formatting of these provisions as a result of the promulgation of the June 1, 2013 Emergency Rule to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective March 14, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1703. Reimbursement Methodology

A. Reserved.

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

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

C. - E.3. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, 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

1602#062

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Supplemental Payments
(LAC 50:V.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 17 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative. This Emergency Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective February 24, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to establish supplemental Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1701. Qualifying Hospitals

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for inpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for inpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured psychiatric hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42: §1703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.272.

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:

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

1602#063

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20001 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement to nursing facilities, through vendor payments, for services rendered to Medicaid eligible individuals who reside in nursing facilities.

For state fiscal year (SFY) 2015-16, the department determined it was necessary to promulgate an Emergency Rule to amend 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 do not increase for the SFY 2016 rating period (*Louisiana Register*, Volume 41, Number 7).

This Emergency Rule is being promulgated in order to continue the provisions of the July 11, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective March 9, 2016, the Department of Health and Hospitals, 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

Administrative and Operating Cost Component—the portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

Base Resident-Weighted Median Costs and Prices—the resident-weighted median costs and prices calculated in accordance with §20005 of this Rule during rebase years.

Calendar Quarter—a three-month period beginning January 1, April 1, July 1, or October 1.

Capital Cost Component—the portion of the Medicaid daily rate that is:

- a. attributable to depreciation;
- b. capital related interest;
- c. rent; and/or
- d. lease and amortization expenses.

Care Related Cost Component—the portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

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. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

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

Cost Neutralization—refers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the assessment reference date (ARD) field on the MDS.

Direct Care Cost Component—the portion of the Medicaid daily rate that is attributable to:

- a. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;
- b. a proportionate allocation of allowable employee benefits; and
- c. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index—the average of quarterly 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 facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

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

mix indices based on the last day of each calendar quarter. If a facility 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 facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

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 facilities certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

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

Pass-Through Cost Component—includes the cost of property taxes and property insurance. It also includes the provider fee as established by the Department of Health and Hospitals.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

Rate Year—a one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost—a numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

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 facility average CMI and Medicaid average CMI.

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

a. The Summary Review Results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's *Life Safety Code*. It is referred to hereafter as a fire sprinkler system.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

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 supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. Effective for the rate period of July 1, 2015 through June 30, 2016, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and imposes the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2014.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2015 state fiscal year (December 31, 2014).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2014.

4. Base capital values for the Bed Buy-Back program (§20012) purposes will be set equal to the value of these items as of July 1, 2014.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2015.

6. As of the July 1, 2016 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2015 rating period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

Base Resident—Repealed.

Calendar Quarter—Repealed.

Capital Cost Component—Repealed.

1. - 4. Repealed.

Care Related Cost Component—Repealed.

Case Mix—Repealed.

Case-Mix Index—Repealed.

Case-Mix MDS Documentation Review (CMDR)—Repealed.

Cost Neutralization—Repealed.

Delinquent MDS Resident Assessment—Repealed.

Direct Care Cost Component—Repealed.

1. - 3. Repealed.

Facility Cost Report Period Case-Mix Index—Repealed.

Example: Repealed.
Facility-Wide Average Case-Mix Index—Repealed.
Final Case-Mix Index Report (FCIR)—Repealed.
Index Factor—Repealed.
Minimum Data Set (MDS)—Repealed.
MDS Supportive Documentation Guidelines—Repealed.
Pass-Through Cost Component—Repealed.
Preliminary Case Mix Index Report (PCIR)—Repealed.
Rate Yea—Repealed.
Resident-Day-Weighted Median Cost—Repealed.
RUG-III Resident Classification System—Repealed.
Summary Review Results Letter—Repealed.
 1. Repealed.
Supervised Automatic Sprinkler System—Repealed.
Two-Hour Rated Wall—Repealed.
Unsupported MDS Resident Assessment—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 28:1790 (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), LR 42:

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

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

Rebekah E. Gee MD, MPH
 Secretary

1602#064

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
 Bureau of Health Services Financing**

Outpatient Hospital Services
 Public-Private Partnerships
 Supplemental Payments
 (LAC 50:V.Chapter 67)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 67 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to

non-state owned hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3). This Emergency Rule continues the provisions of the March 2, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective February 24, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental Medicaid payments for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 67. Public-Private Partnerships

§6701. Qualifying Hospitals

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for outpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for outpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments

for outpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured psychiatric hospital services by:

- a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or
- b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42: **§6703. Reimbursement Methodology**

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

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:

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

1602#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:I.Chapter 85 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Patient Protection and Affordable Care Act (PPACA), U.S. Public Law 111-148, and 111-152 directed states to establish a Recovery Audit Contractor (RAC) program to audit payments to Medicaid providers. Act 568 of the 2014 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement a Recovery Audit Contractor program. In compliance with the Patient Protection and Affordable Care Act (PPACA) and Act 568, the department promulgated an Emergency Rule which adopted provisions to establish the RAC program

(*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective March 18, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions establishing the Recovery Audit Contractor program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 85. Recovery Audit Contractor

§8501. General Provisions

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

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

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

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

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

§8503. Definitions

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

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

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

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

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

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

§8505. Contractor Functions

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

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

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

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

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

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

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

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

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

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

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

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

§8507. Reimbursement and Recoupment

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

B. The RAC and the department shall not recoup any overpayments identified by the RAC until all informal and formal appeals processes have been completed. For purposes of this Section, a final decision by the Division of Administrative Law shall be the conclusion of all formal appeals processes. This does not prohibit the provider from seeking judicial review and any remedies afforded thereunder.

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

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

§8509. Provider Notification

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

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

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

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

§8511. Records Requests

A. The RAC shall limit records requests to not more than 1 percent of the number of claims filed by the provider for the specific service being reviewed in the previous state

fiscal year during a 90 day period. The 1 percent shall be further limited to 200 records. For purposes of this Chapter, each specific service identified for review within the requested time period will be considered a separate and distinct audit.

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

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

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

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

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

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

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

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

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

§8513. Audits and Records Submission

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

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

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

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

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

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

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

§8515. Appeals Process

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

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

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

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

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

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

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

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

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

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

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

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

§8517. Penalties and Sanctions

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, 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

1602#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Certification of Medication Attendants
(LAC 48:IX.Chapter 9)

The Office for Citizens with Developmental Disabilities (OCDD) has amended LAC 48:IX.Chapter 9, Guidelines for Certification of Medication Attendants (CMA). R.S. 37:1021-1025 authorizes the establishment of "a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for the developmental delayed (ICFs/DD) and community homes for the developmental delayed either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health and Hospitals (DHH); and to individuals in programs/agencies contracting for services with DHH except as prohibited in §911.B.5."

Based on an opinion given by the Louisiana State Board of Medical Examiners, the Department of Health and Hospitals has discontinued the use of physician delegation forms in intermediate care facilities and home and community-based settings. Unlicensed personnel must now complete minimum training requirements in order to administer medication to individuals with intellectual and developmental disabilities. The termination of physician

delegation has resulted in a large influx of individuals seeking CMA training and certification. This has created an administrative burden to providers as well as OCDD to timely process a steadily increasing number of certifications. This is also an unfunded training mandate, which incurs significant costs to provider agencies and requires annual continuing education for re-certification. Due to limited funding, provider agencies who cannot afford to maintain the certification will experience a reduction in unlicensed personnel who are qualified to give medication to clients, thus increasing the risk for medication errors, critical incidents, and mortality for medically compromised and vulnerable clients. The Office for Citizens with Developmental Disabilities, seeks to extend the certification period for certified medication attendants to two years effective February 19, 2016. Provider agencies must determine CMA competency annually during the two-year period.

Also effective February 19, 2016, OCDD will allow CMAs who have not worked directly with medication administration for 12 months or more to be administered the statewide exam and a competency evaluation rather than requiring that they repeat the training. The opportunity for this will also decrease administrative burden and allow qualified individuals to more quickly re-enter the work force which will in turn, help assure client health and safety. This Emergency Rule, adopted on February 3, 2016, 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.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Mental Retardation/Developmental Services

Chapter 9. Guidelines for Certification of Medication Attendants

§915. Certification Requirements and Process

A. CMA certificates issued after Rule promulgation will expire two years from the last day of the month that the certificate was printed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended LR 23:1147 (September 1997), LR 42:

§917. Recertification Requirements and Process

A. Bi-Annual Requirements. On a bi-annual basis each CMA must be recertified. The requirements for recertification are:

1. completion of a total of nine hours of in-service training. Two of the nine hours must directly relate to the agency's medication administration policy and procedure. The remaining seven hours of in-service must relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two hour training on agency medication administration policy and procedure is required for each employer. Each agency must have documentation of each CMA's required nine hours of in-service training;

2. pass with proficiency, either by physical or verbal demonstration, the 25 skills on the practical checklist on an annual basis. The annual cycle is based on the last day of the month that the certificate was printed. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 25 skills upon hire, in addition to meeting these requirements for recertification.

B. - C. ...

D. The re-certification requirements must be met prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for the intellectually/developmentally disabled for 12 months or more must take the OCDD CMA state exam again and pass with proficiency the 25 skills checklist. If the CMA does not pass the state exam, then the CMA must repeat the 60-hour course and pass the exam prior to being recertified. Failure to pass the state exam will result in decertification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 23:1147 (September 1997), LR 42:

§919. Decertification of Medication Attendants

A. ...

B. Decertification may occur under the following conditions:

1. failure of CMA to obtain re-certification requirements. The CMA may be reinstated if the re-certification requirements are met within six months of expiration of the certificate. During this six-month period the CMA's authorized functions shall be suspended;

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 42:

§925. Provider Responsibility

A. - A.2. ...

3. documentation of annual successful completion of the 25-skills checklist and bi-annual completion of continuing education necessary for re-certification of CMA.

B. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medication have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining recertification requirements of their CMA's and that their CMA's perform their functions in a safe manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), amended 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 Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this proposed Rule.

Rebekah E. Gee MD, MPH
Secretary

1602#027

DECLARATION OF EMERGENCY

Department of State Business Services Division

Home Service Contract Providers (LAC 19:V.Chapter 3)

The secretary of state, pursuant to the emergency provisions of the Administrative Procedure Act (R.S. 49:953(B)) and under the authority of R.S. 51:3141 through 3146 and R.S. 36:742, has adopted a Declaration of Emergency to govern home service contract providers. During the 2015 Regular Legislative Session, Act No. 161 was adopted transferring the registration process for home service contract providers from the Department of Insurance to the Department of State effective January 15, 2016. Since the secretary of state did not have legal authorization to adopt policies and procedures regarding home service contract providers until January 15, 2016, the secretary of state has determined that a Declaration of Emergency should be adopted until the department can proceed through the rule-making process and adopt a final Rule.

The Declaration of Emergency shall become effective on January 19, 2016 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until a final Rule is adopted, whichever occurs first.

Title 19

CORPORATION AND BUSINESS

Part V. Secretary of State

Chapter 3. Home Service Contract Providers

§301. Home Service Contract Providers Registration with the Department of State

A. Prior to doing business in the state of Louisiana, all home service contract providers will be required to register with the Department of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 12:314.1 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

§303. Home Service Contract Providers Registration Fee

A. The secretary of state hereby adopts the following fee schedule for home service contract providers transacting business in this state.

1. Beginning January 2016, all home service contract providers who want to do business in Louisiana shall pay the department an initial registration fee of \$600.

2. Every two years thereafter, each home service contract provider will be required to pay a renewal fee of \$250 by January 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 12:314.1 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:

Tom Schedler
Secretary of State

1602#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Harvest Season for
Non-Sandbar Large Coastal Sharks
Possession Limit

The shark fisheries in the Gulf of Mexico are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC), and the National Marine Fisheries Service (NMFS). Regulations promulgated by NMFS are applicable in waters of the exclusive economic zone (EEZ) of the U.S.

Previously promulgated rules, 50 CFR 635.24(a)(2), by NMFS increasing the federal possession limit of commercially harvested sharks from the non-sandbar large coastal sharks group (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse, blacktip, bull, lemon, silky, spinner and tiger sharks) from 36 to 45 sharks in the Gulf of Mexico will be effective for the commercial season beginning on January 1, 2016.

In order to enact regulations in a timely manner so as to have compatible regulations in place in Louisiana waters to coincide with the new regulations set forth by NMFS, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953(B) and 49:953(H), which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set possession limits, seasons, and daily take limits based upon biological and technical data for saltwater finfish taken or possessed in Louisiana waters, the Wildlife and Fisheries Commission hereby declares:

Persons possessing a commercial state shark permit but no federal shark permit shall not possess on any one day, or on any trip, or land from any trip, or sell, barter, trade, or exchange in excess of the federal possession limit for sharks from the non-sandbar large coastal species group (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse, blacktip, bull, lemon, silky, spinner and tiger sharks), taken from Louisiana state waters. Persons possessing a commercial state shark permit shall not possess any sandbar sharks unless they also have in their name and in their possession a valid federal shark research permit under 50 CFR 635.32(1). Those persons possessing a federal commercial directed or incidental limited access shark

permit or federal shark research permit issued by the National Marine Fisheries Service under the federal fishery management plan for Atlantic sharks are limited to daily take, trip and possession limits as specified in that federal permit. This Declaration of Emergency is effective at 12:01 a.m. January 1, 2016.

The commission also hereby grants authority to the secretary of the Department of Wildlife and Fisheries to modify any provisions pursuant to this declaration of emergency when notified by NOAA Fisheries that changes have been made regarding the possession of non-sandbar large coastal sharks in the federal waters of the Gulf of Mexico, or as needed to effectively implement the provisions herein upon notification to the chairman of the Wildlife and Fisheries Commission. Such authority shall extend until December 31, 2016.

Pat Manuel
Chairman

1602#052

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Harvest of Seed Oysters for Bedding
Sister Lake Bay Public Oyster Seed Reservation

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest of seed oysters for bedding purposes from the Sister Lake Bay public oyster seed reservation shall close at one half hour after sunset on Wednesday, October 28, 2015.

Harvest pressure during the season has significantly reduced an already small seed oyster stock size and continued commercial harvest may threaten the long-term sustainability of remaining oyster resources and reefs in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of this public oyster seed reservation.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham
Secretary

1602#049

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Season Closure
Lake Chien Public Oyster Seed Ground

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest oysters from the Lake Chien public oyster seed ground shall close at one half hour after sunset on Monday, November 30, 2015.

Harvest pressure during the season has reduced oyster stocks and continued harvest may threaten the long-term sustainability of remaining oyster resources and reefs in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of this public oyster seed ground.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham
Secretary

1602#051

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Season—Full Closure
Sister Lake Bay Public Oyster Seed Reservation

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest oysters from the Sister Lake Bay public oyster seed reservation shall close at one half hour after sunset on Friday, November 13, 2015.

Harvest pressure during the season has significantly reduced oyster stocks and continued harvest may threaten the long-term sustainability of remaining oyster resources

and reefs in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of this public oyster seed reservation.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham
Secretary

1602#055

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Season—Public Oyster Seed Grounds
East of the Mississippi River and North of the
Mississippi River Gulf Outlet

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest of oysters from all public oyster seed grounds east of the Mississippi River and north of the Mississippi River Gulf Outlet, including Lake Borgne, shall close at one half hour after sunset on Monday, December 7, 2015.

Since the season opened on October 19, 2015, excessive undersize oyster violations have occurred in this area indicating that the vast majority of the remaining oyster resources are sub-market size (less than three inches in length). The closure is necessary to protect undersized oysters, allowing growth for future harvest opportunities. Protection of the remaining oyster reef resources is in the long-term best interest of oyster conservation in this area.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham
Secretary

1602#050

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Partial Fall Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency

procedures to set shrimp seasons; R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the department the powers, duties and authority to set shrimp seasons; and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 6, 2015 which authorizes the secretary of the Department of Wildlife and Fisheries to close the fall inshore shrimp season when biological and technical data indicate the need to do so or if enforcement problems develop, the secretary of the Department of Wildlife and Fisheries does hereby declare:

The 2015 fall inshore shrimp season shall close on December 21, 2015 at official sunset, except for the following inside waters located east of the Mississippi River: Lake Pontchartrain, Chef Menteur and Rigolets Passes, Lake Borgne, Mississippi Sound, Mississippi River Gulf Outlet (MRGO), and the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)2.

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) per pound except during the time period from October 15 through the third Monday in December. Recent biological sampling conducted by the Department of Wildlife and Fisheries has indicated that average white shrimp size within these waters to be closed is smaller than the minimum possession count and this action is being taken to protect these small white shrimp and provide opportunity for growth to larger and more valuable sizes. Existing data do not currently support shrimping closures in additional state inside and outside waters. However, historic data suggest additional closures may be necessary and the Department of Wildlife and Fisheries will continue monitoring shrimp populations in these waters. 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.

Robert J. Barham
Secretary

1602#048

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Red Snapper Season Opening

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons; R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish; and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify the recreational red snapper seasons and possession limits in Louisiana state waters if he deems necessary; and upon approval of proposed season by the Wildlife and Fisheries Commission, the secretary hereby declares that the recreational fishery for red snapper in Louisiana state waters shall open at six o'clock a.m. on Friday, January 8, 2016 and

shall remain open during every day of the week and shall remain open until further notice. The recreational bag and possession limit and minimum size limit for red snapper shall remain as established in LAC 76.VII.335, which is two red snapper per person per day, with a minimum size of 16 inches total length.

Robert Barham
Secretary

1602#076

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Seed Oyster Harvest for Bedding
Public Oyster Seed Grounds East of the Mississippi River
and North of the Mississippi River Gulf Outlet

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest of seed oysters for bedding purposes from all public oyster seed grounds east of the Mississippi River and north of the Mississippi River Gulf Outlet, including Lake Borgne, shall close at one half hour after sunset on Monday, November 30, 2015.

Harvest activities during the season have reduced seed oyster stocks and removed excessive amounts of non-living reef material from the public oyster seed grounds. Continued commercial harvest may threaten the long-term sustainability of remaining oyster resources and reefs in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of these public oyster seed grounds.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to

such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham
Secretary

1602#054

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Seed Oyster Harvest Season for Bedding
Public Oyster Seed Grounds East of the
Mississippi River and South of the
Mississippi River Gulf Outlet

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest of seed oysters for bedding purposes from all public oyster seed grounds east of the Mississippi River and south of the Mississippi River Gulf Outlet, including the Bay Gardene public oyster seed reservation, shall close at one half hour after sunset on Friday, December 11, 2015.

Harvest activities during the season have reduced seed oyster stocks and removed excessive amounts of non-living reef material from the public oyster seed grounds. Continued commercial harvest may threaten the long-term sustainability of remaining oyster resources and reefs in these areas. Protection of these remaining oyster reef resources from injury is in the best interest of these public oyster seed grounds.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Robert J. Barham
Secretary

1602#053

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Agricultural Chemistry and Seed Commission

Seeds (LAC 7:XIII.121, 123, 519, 749 and 763)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”) has amended LAC 7:XIII.121, 123, 519, 749 and 763. The amendment to LAC 7:XIII.121 increases the fee for licensure as a seed dealer from \$100 to \$150 and is authorized by R.S. 3:1437. The amendment to LAC 7:XIII.123 increases the seed regulatory fee from \$0.25 to \$0.25 per 100 pounds of seed sold at first point of sale within the state. This fee increase is authorized by R.S. 3:1448. In addition, the amendment to this Rule changes the word “inspection” to “regulatory” to create language consistency between the Rule and law. The amendment to LAC 7:XIII.519 removes the security seal requirement for registered class of certified rice and small grains packaged in superbags or Q-bit containers because standard industry practices no longer require the use of security seals when packaging certified rice and small grains. The amendment to LAC 7:XIII.749 increases the land requirements for certified seed rice fields previously planted to hybrid rice to five years to ensure that the rice seed certification standards are reflective of the most current industry practices and challenges. The amendment to LAC 7:XIII.763 increases by one year the source of registered sugarcane seed stock, includes and establishes tolerance levels for eastern black nightshade as a noxious weed, removes browntop panicum as a noxious weed, broadens the scope of harmful diseases by removing the word “virus” from sugarcane mosaic virus, broadens the scope of harmful insects by removing Mexican rice borer, and changing sugarcane stem borer to sugarcane stem borers.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. General Provisions

Subchapter B. Fees

§121. License Fee; Laboratory and Sampling Fees (Formerly §113)

A. Seed Dealer's License. The annual fee for a seed dealer's license shall be \$150. The seed dealer's license shall be renewed annually, and is based on the fiscal year July 1 through June 30.

B. - B.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 7:164 (April 1981), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:1220

(June 2010), LR 37:1373 (May 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013), amended LR 40:745 (April 2014), LR 41:911 (May 2015), LR 42:211 (February 2016).

§123. Regulatory Fee on Seeds (Formerly §115)

A. A regulatory fee of \$0.25 for each 100 pounds of agricultural and vegetable seed sold, within this state shall be paid to the commission. The regulatory fee shall be due at the first point of sale in this state. However, the payment of a regulatory fee is not required upon the sale of Louisiana certified tagged seed upon which the regulatory fee has already been paid.

B. - B.4. ...

C. Each seed dealer shall file a quarterly report with LDAF on a form approved by the commission and submit the regulatory fees collected during that quarter.

1. The reports shall cover the following periods:

- 1st quarter—July, August, September;
- 2nd quarter—October, November, December;
- 3rd quarter—January, February, March;
- 4th quarter—April, May, June.

2. Reports and fees shall be filed with LDAF no later than 30 days following the end of each quarter. If a seed dealer has no sales during the quarterly reporting period the LDAF must be notified accordingly.

D. LDAF may assess a 10 percent additional charge as a late payment for failure to timely pay any regulatory fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 14:603 (September 1988), amended LR 29:2632 (December 2003), LR 38:1558 (July 2012), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013), amended LR 40:745 (April 2014), LR 42:211 (February 2016).

Chapter 5. General Seed Certification Requirements

§119. Processing of Certified Seed

(Formerly §141)

A. Bagging

1. All seed approved for certification must be packaged in new 100 pound containers or less, except as provided by this Subsection.

2. Registered class of rice and small grains (wheat and oats):

a. new super-bags or Q-bit bulk containers (or its equivalent as determined by LDAF).

3. Certified class of rice and small grains (wheat and oats):

a. new or reusable super-bags or Q-bit bulk containers (or its equivalent as determined by LDAF). Reusable containers shall be cleaned in a manner approved by LDAF.

B. - B.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 20:643 (June 1994), LR 31:35 (January 2005), LR 31:1510 (July 2005), LR 39:1758 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2713 (October 2013), amended LR 40:750 (April 2014), LR 42:211 (February 2016).

Chapter 7. Certification of Specific Crops/Varieties

Subchapter B. Grain and Row Crop Seeds

§749. Rice Seed Certification Standards (Formerly §185)

- A. - A.3. ...
- B. Field Standards

| Factor | Breeder | Foundation | Registered | Certified |
|--|---------|------------|--------------------|----------------------|
| Land Requirement | | | | |
| Conventional Varieties | 1 yr. | 1 yr. | 1 yr. | 1 yr. |
| Hybrid Varieties | 5 years | 5 years | 5 years | 5 years |
| Other Varieties | None | None | 10 Plants per Acre | 25 Plants per Acre |
| *Harmful Diseases | None | None | None | None |
| Noxious Weeds: Red Rice (including Black Hull Rice) | None | None | None | 1 Plant per 10 Acres |
| Spearhead | None | None | None | 2 Plants per Acre |
| Curly Indigo | None | None | 4 Plants per Acre | 4 Plants per Acre |
| *Diseases seriously affecting quality of seed and transmissible by planting stock. | | | | |

- C. ...
- * * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:576 (November 1982), amended LR 9:201 (April 1983), LR 9:754 (November 1983), LR 10:495 (July 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 13:157 (March 1987), LR 13:233 (April 1987), LR 14:606 (September 1988), LR 14:694 (October 1988), LR 15:613 (August 1989), LR 19:888 (July 1993), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2724 (October 2013), LR 42:212 (February 2016).

§763. Sugarcane (Tissue Culture) Certification Standards (Formerly §207)

- A. - A.2. ...
- 3. Source of registered stock is limited to plantlets produced through tissue culture of foundation material or the second ratoon. Stock that meets all standards except insect and/or weeds standards be maintained in the program as seed increase fields only, but may not be marketed to producers. Such stocks are eligible for re-certification once they come in compliance with applicable regulations.

- 4. Source of certified stock is limited to:
 - a. three consecutive years from planting of registered stock; and
 - b. two consecutive harvests of certified stock.
- B. - D. ...
- E. Field Standards

| Factor | Foundation | Registered | Certified |
|---|------------|---------------|----------------|
| Isolation | 10 ft. | 10 ft. | 10 ft. |
| Other Varieties (obvious) | None | 1.00% | 1.00% |
| Off-Type (definite) | None | 1.00% | 1.00% |
| Noxious Weeds: | | | |
| Johnsongrass | None | 5 Plants/Acre | 5 Plants/ Acre |
| Itchgrass | None | 1 Plant/Acre | 1 Plant/ Acre |
| Eastern Black Nightshade | None | 3 Plants/Acre | 3 Plants/Acre |
| Harmful Diseases: | | | |
| *Sugarcane Yellow Leaf Virus | None | 10.00% | 10.00% |
| **Sugarcane Mosaic | None | 10.00% | 10.00% |
| **Sugarcane Smut | None | 0.50% | 0.50% |
| Harmful Insects: | | | |
| ***Sugarcane Stem Borers | None | 5.00% | 5.00% |
| *Determined by lab analysis for the LSU Sugarcane Disease Detection Lab | | | |
| **Plants exhibiting symptoms | | | |
| ***Determined by percentage of internodes bored | | | |

- F. - G.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:1609 (August 2007), LR 36:1223 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2729 (October 2013), amended LR 40:756 (April 2014), LR 42:212 (February 2016).

Mike Strain, DVM
Commissioner

1602#031

RULE

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Structural Pest Control Commission**

Structural Pest Control (LAC 7:XXV.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (“department”), through the Office of Agricultural and Environmental Sciences and Structural Pest Control Commission, has amended and adopted the rules set forth below. The amendments to §101 define and clarify regulated terms used by the structural pest control industry. The amendments to §105 raise the fee from \$125 to

\$150 for issuance of a permit for firms which employ two or less employees and from \$175 to \$200 for firms which employ three or more employees. The amendments to §107 require written notification to the department if telephone answering services or call centers are utilized. The amendments to §113 raise the fee from \$20 to \$25 for administrative processing of a technician registration certificate. The amendments to §117 make the following changes:

(i). raise the annual fee for licensed pest control operations from \$5 to \$10 for each phase in which the pest control operator is licensed;

(ii). raise the fees for wood destroying insect reports and contracts from \$8 to \$12; and

(iii). obligate the licensed operator to use backflow prevention to protect water sources, to use listed telephone numbers, and to record completion date for new construction.

Finally, the amendments to §141 do the following:

(i). provide homeowners and pest control operators additional treatment options for control of termites while still providing for minimum treatment specifications and include pier type construction in pre-construction;

(ii). modify the required information on pre-treatment notifications;

(iii). modify the requirements of pest control operators when bait contracts are terminated;

(iv). remove the requirement of a pilot program for bait and baiting system products; and

(v). permit the use of rodding around utility equipment.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

A. The definitions in R.S. 3:3362 are applicable to this Part.

B. The following words and terms are defined for the purposes of this Part.

* * *

Structural Fumigation—the fumigation by covering or sealing churches, schools, homes or any other buildings in which people are normally housed or work or is frequented by people. This also includes the covering or sealing of small boats or ships under 100 feet.

Supervision—see definition of *direct supervision* in this Section.

Supplemental Treatment—when used in connection with termite work, “supplemental treatment” means a localized application of chemicals or other substances and/or placement of baits to control, prevent or eradicate termites in a residence or other structure that is under a current contract.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and

Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1015 (June 2006), amended LR 33:39 (January 2007), LR 35:204 (February 2009), LR 35:1468 (August 2009), LR 37:272 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013), LR 41:333 (February 2015), LR 42:213 (February 2016).

§105. Permit for Operation of Structural Pest Control Business; Changes in Structural Pest Control Business

A. - C. ...

D. The fee for issuance of a permit for operation shall be \$150 for firms which employ two or less employees and \$200 for firms which employ three or more employees.

E. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3374.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:325 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 33:40 (January 2007), LR 37:275 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 42:213 (February 2016).

§107. License to Engage in Structural Pest Control Work Required

A. - O. ...

P. Any permittee\licensee utilizing telephone answering services and/or call centers other than at locations holding a place of business permit shall submit written notification to the department.

Q. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 31:2761 (November 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 37:276 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 42:213 (February 2016).

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. - B.7. ...

C. The fees for the registration of technician shall be as follows.

1. The fee of the administrative processing of the registration certificate shall be \$25. This fee shall be paid at the time of initial registration.

C.2. - P.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989),

LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 42:213 (February 2016).

§117. Obligations of the Licensee/Permittee

A. - I. ...

J. The annual fee for licensed pest control operators shall be \$10 for each phase in which the pest control operator is licensed.

K. ...

L. The fee for each standard contract and wood-destroying insect report that has been issued is \$12. All such fees are due and payable to the department at the time the reports required by §119.E are due.

M. ...

N. The pest control operator shall provide for an air space or a backflow preventer on the water hose used in supplying water to the chemical tank.

O. Signage of Vehicles

1. General. A motor vehicle being operated by a place of business that is engaged in the transport or application of pesticides shall be marked as specified below:

a. magnetic or removable signs may be used;

b. size, shape, location and color of marking. The marking shall contain the following:

i. appear on both sides of the vehicle;

ii. be in letters that contrast sharply in color with the background;

iii. be readily legible during daylight hours;

iv. lettering shall be a minimum of 2 inches in height;

v. be kept and maintained in a manner that retains the legibility of the information required by §117.O.1.c;

c. nature of marking. The marking shall display the following information:

i. the name or trade name of the place of business operating the vehicle.

P. No employee shall use a telephone number, other than the place of business permit phone number, to advertise or solicit business unless approved, in writing, by the permittee or licensee and reported in writing to the department.

Q. The pest control operator shall record the nature and date of the completion of new construction, as found in §101.B within the definition of *construction*, and maintain the date as part of the application records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016).

§141. Minimum Specifications for Termite Control Work

A. - B.3. ...

4. Rodding shall be acceptable only when trenching will damage irrigation equipment, utility equipment flowers and/or shrubs.

B.5. - C.7.c. ...

d. drill holes into each compartment of the lowest accessible block of hollow concrete (or other lightweight aggregate) blocks and apply chemical into the openings under sufficient time and pressure to treat the area of the bottom of the foundation. When hollow concrete (or other lightweight aggregate) blocks have been filled with mortar, additional holes may be drilled below the sill plate and apply chemical into the openings using reduced pressure to treat the area of the bottom of the foundation. On T-shaped or L-shaped piers the connecting mortar joints (crotches) shall be drilled and treated. Drilling is not required if the opening in the block is accessible.

8. Ground treatment:

a. ...

b. all trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage irrigation equipment, utility equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

c. ...

d. rod under or drill through the slab and treat all areas beneath expansion joints and cracks of adjoining or abutting slab(s) as per label and labeling instructions. When the slab is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

9. - 10. ...

* * *

D. Treatment of Existing Slab-Type Construction

1. - 1.a. ...

b. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, utility equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

c. ...

d. Rod under or drill through the slab and treat all areas beneath expansion joints and cracks of adjoining or abutting slab(s) as per label and labeling instructions. When the slab is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

2. - 4.c.

E. Pre-Construction Treatment

1. The permittee or primary licensee shall pre-treat all slab and pier type construction using the required chemical and making the application of the product mixture at a rate and manner prescribed on the label and labeling.

2. The permittee or primary licensee shall report the completion of the application to the outside of the foundation slab or pier type construction to the department on the termite perimeter application form. Within 12 months after initial treatment, the outside perimeter of the foundation slab or pier type construction will be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall or pier type construction. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage irrigation equipment, utility equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the initial pre-treated slab or pier type construction and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas;

c. in lieu of trench and treat, a commission approved method of hydraulic injection shall be used in conjunction with an approved termiticide with label and labeling for hydraulic injection use. Hydraulic injection shall be performed around the slab to form a treatment zone.

3. If, during the treatment of any area which will be beneath a slab foundation or pier type construction, the operator shall leave the site for any reason prior to the completion of the application, the operator shall prominently display a poster, approved by the department, which states that the treatment of the area under the slab or pier type construction is not complete.

4. All pre-treatment of slabs or pier type construction shall be called or faxed to the department's district office in which the pretreat occurs, a minimum of 1 hour prior to beginning the application of termiticides. The information provided shall include treatment company name; treatment structure street address, city, zip code, parish; if available; and/or directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; estimated square or linear footage of each structure to be treated; and number of reported structures. All pest control operators shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Pre-treatments in a parish shall be called into the corresponding district office:

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto;

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln,

Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula;

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon;

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu;

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette;

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge;

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

F. Spot Treatment

1. Spot treatments shall not be done on pier-type or slab construction except where a waiver of minimum specifications has been obtained from the owner of the property. All buildings that cannot be treated according to the minimum specifications shall have a waiver of the item or items signed by the owner prior to the treatment. A copy of the signed waiver shall be filed with the department with the monthly termite eradication report.

2. Treatment will be allowed to any additions to the main structure or exterior slab enclosures and a fee shall be paid and a contract issued on this addition unless the main structure is under contract with the firm performing the treatment on this addition.

3. Each spot treatment reported on the wood-destroying insect eradication report shall include a waiver of minimum specifications and a complete diagram of the area(s) treated.

G. Infested Properties

1. Whenever any agent of the department finds that any property is infested with termites, the pest control operator who treated the property or who has a current contract shall retreat within 30 days after receipt of notification from the department.

2. When the pest control operator completes the re-treatment, he shall notify the department within 5 working days.

H. Waiver of Requirements of Minimum Specifications for Termite Control Work

1. A pest control operator may request from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for initial treatment. The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be sent to the department with the company's monthly eradication report. The waiver shall include, but not be limited to, the following information:

a. graph identifying the structure and the specific area(s) where treatment is waived;

b. a description of each area where treatment is waived; and

c. for each area, the reason treatment is being waived.

2. A pest control operator may request, from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for retreat(s). The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be made available to the department upon reasonable request. The waiver shall include, but not be limited to, the following information:

- a. a graph identifying the structure and the specific area(s) where treatment is waived;
- b. a description of each area where treatment is waived; and
- c. for each area, the reason treatment is being waived.

3. The requirements specified in §141.B.1-3 shall not be waived.

I. Requirements for Baits and Baiting Systems

1. Any licensee or any person working under the supervision of a licensee, who applies baits and/or baiting systems, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system. Manufacturer certification and training programs shall have department approval of the agenda prior to the program presentation.

2. All baits and baiting systems applications shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.119.D and pay the fee as described in LAC 7:XXV.119.E.

3. Bait and baiting systems shall be used according to label and labeling.

4. Above-ground bait stations shall be used according to their label and labeling when the presence of subterranean termites are detected in the contracted structure and shall be monitored not less than quarterly.

5. All bait stations shall be monitored\inspected according to the label and labeling.

6. Monitoring and ground bait stations shall surround the contracted structure and shall not be more than 20 feet apart, where soil is available unless the label requires stations closer and/or does not allow for "where soil is available."

7. Monitoring and ground bait stations, where soil is available, shall be no further than 20 feet from the slab or pier's outside perimeter except for non-structural wood elements including but not limited to trees, stumps, wood piles, landscape timbers and detached fences.

8. Records of contracts, graphs, monitoring, and bait applications shall be kept according to LAC 7:XXV.117.I.

9. A consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

10. All monitoring and bait stations shall be removed by the pest control operator from the contracted property within 90 days of the termination of the contract, unless denied access to the property. In the event the bait and baiting system manufacturer stops the use by the pest control operator of their bait and baiting system; all monitoring and

bait stations shall be removed by the pest control operator from the contracted property within 90 days of the stop use notification, unless denied access to the property.

J. Requirements for Combination Liquid Spot and Baits and Baiting Systems Treatments

1. Any licensee or any person working under the supervision of a licensee, who applies a combination liquid spot and baits and/or baiting systems treatments, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system.

2. Combination of liquid spot and bait and baiting systems treatments shall be used according to label and labeling. Above-ground bait stations shall be monitored not less than quarterly.

3. All combination liquid spot and baits and baiting systems treatments shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.119.E and pay the fee as described in LAC 7:XXV.119.F.

4. Records of contracts, graphs, monitoring (if required), and applications shall be kept according to LAC 7:XXV.117.I. At termination of the contract, the pest control operator shall remove all components of bait and baiting systems.

5. All structures that cannot be treated according to the combination liquid spot and bait and baiting systems treatment minimum specifications shall have a waiver of the listed item or items signed by the owner prior to the baiting treatment. A copy of signed waiver shall be filed with the department with the monthly termite eradication reports.

6. A bait and baiting systems consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

7. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction shall bait following the label and labeling and liquid spot treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) around the perimeter of the structure, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, utility equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.K.7.a. When the abutting slab is drilled, the holes shall be no more than 18 inches apart, unless label requires closer distance along the above stated areas.

c. Treat bath trap(s) as per label and labeling. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top

of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap shall also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pore, it shall be drilled and treated as close as practical to the bathtub plumbing.

d. All showers shall be drilled and treated as close as practical to shower plumbing according to label and labeling.

e. All other openings (plumbing, etc.) shall be treated as required by label and labeling.

f. In lieu of trench and treat, a commission approved method of hydraulic injection shall be used in conjunction with an approved termiticide with label and labeling for hydraulic injection use. Hydraulic injection shall be performed around the slab to form a treatment zone.

8. Combination liquid spot and bait and baiting systems treatments of existing pier-type construction with live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of infestation site(s) on brick/block chain wall(s) and all piers within 10 feet of an infested pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

b. Above-ground bait stations shall be monitored not less than quarterly.

c. In lieu of trench and treat, a commission approved method of hydraulic injection shall be used in conjunction with an approved termiticide with label and labeling for hydraulic injection use. Hydraulic injection shall be performed around the slab to form a treatment zone.

9. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction and pier-type construction without live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat as required in LAC 7:XXV.141.K.7.c-e.

10. Whenever any property under a combination liquid spot and bait and baiting systems treatment contract becomes infested with subterranean termites, the operator shall treat the property according to the minimum specifications as stated in LAC 7:XXV.141.K.

K. Requirements for Retreats

1. Retreatment of existing slab-type construction shall treat following the label and labeling and the following minimum specifications.

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) and/or a breach(s) in the treated zone around the perimeter of the structure, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, e flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.L.1.a. When the abutting slab is

drilled, the holes shall be no more than 18 inches apart along the above stated areas unless the label requires closer distance.

c. Treat bath trap(s) as per label and labeling when live subterranean termites or a breach(s) in the treated zone occur. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap shall also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing.

d. In lieu of trench and treat, a commission approved method of hydraulic injection shall be used in conjunction with an approved termiticide with label and labeling for hydraulic injection use. Hydraulic injection shall be performed around the slab to form a treatment zone.

2. Retreatments of existing pier-type construction with a live subterranean termite infestation(s) and/or a breach(s) in the treated zone shall liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of a breach(s) in the treated zone or an infestation site(s) on chain wall(s) and all piers within 10 feet of an infested or breached pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

b. In lieu of trench and treat, a commission approved method of hydraulic injection shall be used in conjunction with an approved termiticide with label and labeling for hydraulic injection use. Hydraulic injection shall be performed around the slab to form a treatment zone.

3. Minimum specification treatments shall not include areas properly waived in initial treatment contract.

L. Requirements for Borates Pre-Construction Treatments

1. Treat according to the borate label.

2. A perimeter soil treatment shall be applied within 12 months after initial treatment, the outside perimeter of the foundation, shall be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage irrigation equipment, utility equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas;

c. in lieu of trench and treat, a commission approved method of hydraulic injection shall be used in conjunction with an approved termiticide with label and

labeling for hydraulic injection use. Hydraulic injection shall be performed around the slab to form a treatment zone.

3. Treat bath traps as per termiticide label and labeling or as follows:

a. if the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling;

b. a tar filled bath trap shall also be drilled and treated as required by label and labeling;

c. if bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing;

4. If, during the treatment of any area, the operator shall leave the site for any reason prior to the completion of the application, the operator shall prominently display a poster at the treatment site, which states that the treatment of the area is not complete.

5. The treatments of structures required in this Section shall be called or faxed to the department's district office in which the treatment occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include: treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of the each structure to be treated; and number of structures. Permittees or licensees shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Treatments in a parish shall be called into the corresponding district office:

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto;

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula;

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon;

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu;

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette;

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge;

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines;

6. All borate treatments shall be contracted and reported as provided by R.S. 3:3370 and §119.E of this Part and the fee for each such contract shall be paid in accordance with §119.F of this Part.

7. Records of contracts, graphs, monitoring (if required), and applications shall be kept as required by §117.I.

8. All retreatments shall be as required by §141.L of this Part.

9. The permittee or licensee shall report the completion of the application to the outside of the foundation to the department on the termite perimeter application form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 29:1063 (July 2003), LR 30:1145 (June 2004), repromulgated LR 30:1614 (August 2004), amended LR 35:207 (February 2009), LR 35:1469 (August 2009), repromulgated LR 35:1872 (September 2009), amended, LR 37:286 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:1413 (June 2013), LR 41:333 (February 2015), LR 42:214 (February 2016).

Mike Strain, DVM
Commissioner

1602#028

RULE

**Department of Agriculture and Forestry
Office of Agro-Consumer Services
Division of Weights and Measures**

Metrology Laboratory Fee Structure (LAC 7:XXXV.125)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry ("department"), through the Office of Agro-Consumer Services, Division of Weights and Measures, has amended LAC 7:XXXV.125. This amendment increases the fees which the metrology laboratory may charge for tolerance testing of weights up to and including 10 pounds and for weights over 10 pounds and up to and including 100 pounds. It also institutes a fee of \$10 per weight for adjusting weights that are found to be out of tolerance.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§125. Metrology Laboratory Fee Structure

A. Fees for the tolerance testing of weights shall be as follows.

| | Class F | Class P |
|---|----------------|----------------|
| 1. Weights up to and including 10 pounds or 5 kilograms | \$7 | \$9 |
| 2. Weights over 10 pounds or 5 kilograms and including 100 pounds or 60 kilograms | \$10 | \$15 |
| 3. Weights over 100 pounds or 60 kilograms and including 1000 pounds or 500 kilograms | \$25 | \$50 |
| 4. Weights over 1000 pounds or 500 kilograms | \$50 | \$75 |

B. Any tolerance adjustment will be charged an additional fee of \$10 per weight.

C. Fees for mass calibration with report of calibration stating corrections and uncertainties shall be as follows.

| | |
|---|------|
| 1. Weights up to and including 3 kilograms or 5 pounds | \$25 |
| 2. Weights over 3 kilograms or 5 pounds and including 30 kilograms or 50 pounds | \$50 |

D All tape certification, volumetric testing and calibration or special tests not listed in the fee schedule shall be performed at a rate of \$30 per hour.

E. Incurred costs for return shipment shall be assessed when applicable.

F. The registration fee for each location utilizing scanning devices shall be as follows.

| Category | Number of Point-of-Sale Devices | Fee |
|----------|---------------------------------|-------|
| A | 1 to 10 | \$50 |
| B | 11 to 25 | \$100 |
| C | Over 25 | \$150 |

G. The annual fee for registration of taxi meters is \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004), LR 42:218 (February 2016).

Mike Strain, DVM
Commissioner

1602#030

RULE

**Department of Agriculture and Forestry
Office of Animal Health and Food Safety
Egg Commission**

**Sale or Offering for Sale of Eggs within Louisiana
(LAC 7:V.919)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority in R.S. 3:839, the Department of Agriculture and Forestry (“department”) has amended LAC 7:V.919. Act 523 of the 2003 Regular Session of the Louisiana Legislature amended R.S. 3:842 to provide that “every person who produces, processes, distributes, or sells eggs or egg products in Louisiana shall obtain a license to do so from the department” and increased the fee for obtaining or renewing such license from \$10 to \$100. The amendment to §919 changes the fee for obtaining or renewing this license from \$10 to \$100 to make the Rule consistent with R.S. 3:842.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 9. Market Commission—Poultry and Eggs

Subchapter B. Egg Grading and Marketing

§919. Sale or Offering for Sale of Eggs within Louisiana

A. - E.3. ...

F. Licenses

1. - 2. ...

3. Application forms for license shall be furnished by the Department of Agriculture and Forestry. Each license application shall be accompanied by a fee of \$100 payable to the Louisiana Egg Commission. Upon approval of the application, a license will be issued to the applicant. A license will be valid for a period of one year, September 1 through August 31.

F.4. - G.2. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:293 (March 1997), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Egg Commission, LR 42:219 (February 2016).

Mike Strain, DVM
Commissioner

1602#029

RULE

**Department of Children and Family Services
Division of Programs
Licensing Section**

**Reasonable and Prudent Parent Standards
(LAC 67:V.6703, 6708, 7105, 7111, 7305, 7311, and 7313)**

In accordance with the provisions of the Administrative Procedures Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 8, Chapter 67, Maternity Home, Sections 6703 and 6708; Chapter 71, Child Residential Care Class A, Sections 7105 and 7111; and Chapter 73, Child Placing Agencies, Sections 7305, 7311, and 7313.

Pursuant to Public Law 113-183 and Act 124 of the 2015 Regular Legislative Session, the use of the “reasonable and prudent parent standard” is permitted, under certain circumstances, by a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. Reasonable and prudent parent standard is the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. Standards mandated in this Rule shall be met at all times. Any violation of the provisions of this Rule may result in sanctions against the facility, including but not limited to, removal of any and all children placed in or by the facility; ineligibility to receive state or federal funding for the care and/or supervision of such children or for services related thereto, whether directly or indirectly; revocation of the facility’s license; and legal action to immediately remove any child in the facility’s care or under the facility’s supervision.

The department considers this amendment necessary in order to comply with Public Law 113-183 and Act 124 of the 2015 Regular Legislative Session.

This action was made effective by an Emergency Rule dated and effective September 1, 2015.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 67. Maternity Home

§6703. Definition

A. ...

B. Additional Definitions

1. Definitions, as used in this Chapter:

* * *

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

* * *

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

* * *

2. - 2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010),

amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:968 (April 2012), LR 42:220 (February 2016).

§6708. General Provisions

A. - B.4. ...

C. Reasonable and Prudent Parent Standard

1. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. Licensing shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

2. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities.

3. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parenting—training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

a. age or developmentally appropriate activities or items;

b. reasonable and prudent parent standard;

c. role of the provider and of DCFS; and

d. allowing for normalcy for the child while respecting the parent's residual rights.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:969 (April 2012), amended LR 42:220 (February 2016).

Chapter 71. Child Residential Care, Class A

§7105. Definitions

A. As used in this Chapter:

* * *

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

* * *

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and

sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), LR 42:220 (February 2016).

§7111. Provider Responsibilities

A. - A.9.a.v. ...

10. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. Licensing shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities.

c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

- i. age or developmentally appropriate activities or items;
- ii. reasonable and prudent parent standard;
- iii. role of the provider and of DCFS; and
- iv. allowing for normalcy for the child while respecting the parent's residual rights.

B. - H.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016).

Chapter 73. Child Placing Agencies

§7305. Definitions

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:821 (March 2011), amended LR 42:221 (February 2016).

§7311. Provider Responsibilities

A. - A.7.a.iii. ...

8. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to

decisions involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. Licensing shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities.

c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by the DCFS, shall include, but is not limited to the following topic areas:

- i. age or developmentally appropriate activities or items;
- ii. reasonable and prudent parent standard;
- iii. role of the provider and of DCFS;
- iv. allowing for normalcy for the child while respecting the parent's residual rights.

B. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:828 (March 2011), amended LR 42:221 (February 2016).

§7313. Foster Care Services

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

d. Documentation of reasonable and prudent parent training for all foster parents shall be maintained. This training shall be completed or training materials provided prior to certification for all foster parents certified after August 31, 2015. All foster parents certified on or prior to September 1, 2015 shall receive training or be provided training materials prior to September 29, 2015. Reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

- i. age or developmentally appropriate activities or items;
- ii. reasonable and prudent parent standard;
- iii. role of the foster parents and of DCFS;
- iv. allowing for normalcy for the child while respecting the parent's residual rights.

B.4. - C.5.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:833 (March 2011), amended LR 38:985 (April 2012), LR 42:222 (February 2016).

Marketa Garner Walters
Secretary

1602#040

RULE

Department of Children and Family Services Economic Stability Section

Supplemental Nutritional Assistance Program (SNAP) (LAC 67:III.1942)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has repealed LAC 67:III, Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Chapter 19, Certification of Eligible Households, Subchapter G, Work Requirements, Section 1942, Workforce Training and Education Pilot Initiative.

Pursuant to the authority granted to the department by the Food and Nutrition Services (FNS) and Act 622 of the 2014 Regular Session of the Louisiana Legislature, the department has repealed Section 1942 to terminate the workforce training and education pilot initiative. The pilot initiative was established in Tangipahoa Parish for the purpose of enhancing workforce readiness and improving employment opportunities for SNAP recipients in that parish who are unemployed or underemployed able-bodied adults without dependents (ABAWDs). Unless exempt, these ABAWDs were required to either work an average of 20 hours per week or participate/comply with certain programs that enhance workforce readiness and improve employment for an average of 20 hours per week.

This action was made effective by an Emergency Rule dated and effective October 1, 2015.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

§1942. Workforce Training and Education Pilot Initiative

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 110-246, and Act 622 of the 2014 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 41:533 (March 2015), repealed LR 42:222 (February 2016).

Marketa Garner Walters
Secretary

1602#039

RULE

Department of Economic Development Office of Business Development

Ports of Louisiana Tax Credits (LAC 13:I.Chapter 39)

Under the authority of R.S. 47:6036 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of

Economic Development has amended Sections 3903 and 3923 and adopted Section 3999 for the administration of the Ports of Louisiana Tax Credits Program in LAC 13:I:Chapter 39 to implement fee increases allowed under Act 361 of the 2015 Regular Session of the Louisiana Legislature and to make other changes to bring the rules into compliance with statute and department procedures.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 39. Ports of Louisiana Tax Credits

Subchapter A. Investor Tax Credit

§3903. Preliminary Certification

A. - B.8. ...

C. An application fee shall be submitted with the application based on the following:

1. 0.5 percent (.005) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is \$500 and the maximum application fee is \$15,000 for a single project.

D. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 36:2544 (November 2010), amended by the Office of Business Development, LR 42:223 (February 2016).

Subchapter B. Import-Export Tax Credit

§3923. Application

A. - E.3. ...

F. An application fee equal to 0.5 percent (0.005) times the total anticipated tax incentive, with a minimum application fee of \$500 and a maximum application fee of \$15,000, shall be submitted with each application for import-export credits. The fee shall be made payable to Louisiana Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:2239 (November 2014), amended by the Office of Business Development, LR 42:223 (February 2016).

Editor's Note: Section 3999 below is applicable to both Subchapter A and B.

§3999. Applicability of Act 125 of the 2015 Legislative Session to the Ports of Louisiana Tax Credits

A. Investor Tax Credit

1. From July 1, 2015 through June 30, 2018

a. Annual Program Cap. Total annual installments of tax credits taken in a fiscal year shall not exceed \$4,500,000.

b. Annual Project Cap. Annual installments of tax credits taken by a project in a tax year shall not exceed \$1,800,000.

c. Credit Rate. Credits may be certified at a rate of up to 72 percent of total capital costs.

2. As of July 1, 2018, the annual program cap is \$6,250,000, the annual project cap is \$2,500,000, and credits may be granted at a rate of up to 100 percent of capital costs. However, previously approved credits will remain at the rate certified by the commissioner of the Division of Administration.

B. Import Export Cargo Credit

1. From July 1, 2015 through June 30, 2018

a. Program Cap. Certification of credits by LED shall not exceed \$4,500,000 per fiscal year (including certifications during a fiscal year for cargo shipped prior to that fiscal year).

b. Credit Rate. Credits will be certified at a rate of up to \$3.60 per tons of qualified cargo (including certifications for cargo shipped prior to July 1, 2015).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 42:223 (February 2016).

Anne G. Villa
Undersecretary

1602#043

RULE

Department of Economic Development Office of Business Development

Restoration Tax Abatement Program (LAC 13:I:Chapter 9)

Under the authority of LA Const. Art. VII, §21(H) and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended and reenacted Sections 903, 913, and 921 for the administration of the Restoration Tax Abatement Program in LAC 13:I:Chapter 9, for administration of the Restoration Tax Abatement Program to implement fee increases allowed under Act 361 of the 2015 Regular Session of the Louisiana Legislature and clarify to whom checks for fees should be payable.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 9. Restoration Tax Abatement Program

§903. Time Limits for Filing Application

A. The applicant shall submit an "advance notification" on the prescribed form prior to the beginning of construction. An advance notification fee of \$250 shall be submitted with the advance notification form. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins.

B. ...

C. An application fee (effective May 4, 1988) shall be submitted with the application based on the following:

1. 0.5 percent of the estimated total five-year property tax exemption;

2. minimum application fee is \$500 for all projects except owner occupied residential properties which have no minimum application fee; maximum application fee is \$15,000;

3. please make checks payable to: Louisiana Economic Development.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665 (October 1986), amended by the Department of Economic Development, LR 18:252 (March 1992), amended by the Department of Economic Development, Office of Business Development, LR 42:223 (February 2016).

§913. Affidavit of Final Cost

A. Within six months after construction has been completed, an affidavit of final cost showing complete cost of the exempted project shall be filed on the prescribed form together with a fee of \$250 for the inspection which will be conducted by the Office of Commerce and Industry (make check payable to the Louisiana Economic Development).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:99 (February 1985), amended LR 12:665 (October 1986), amended by the Department of Economic Development, LR 18:254 (March 1992), amended by the Department of Economic Development, Office of Business Development, LR 42:224 (February 2016).

§921. Contract Renewal

A. - B.2. ...

3. a renewal fee check for \$250, payable to Louisiana Economic Development.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, LR 18:252 (March 1992), amended by the Department of Economic Development, Office of Business Development, LR 42:224 (February 2016).

Anne G. Villa
Undersecretary

1602#042

RULE

**Department of Economic Development
Office of Business Development**

Technology Commercialization Credit and Jobs Program
(LAC 13:I.2715 and 2719)

These rules are being published in the *Louisiana Register* as required by R.S. 47:4351 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 has amended Section 2715 and adopted Section 2719 for the administration of the Technology Commercialization Credit and Jobs Program in LAC 13:I.Chapter 27 to implement fees under the new fee schedule provided for by Act 361 of the 2015 Regular Session of the Louisiana Legislature and to make other changes to bring the rules into compliance with statute and department procedures.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

**Chapter 27. Technology Commercialization Credit
and Jobs Program**

§2715. Application Fee

[Formerly §2711]

A.1. An application fee in the amount equal to 0.5 percent (0.005) times the total anticipated tax incentive with a minimum application fee of \$500 and a maximum application fee of \$15,000 shall be submitted with each application.

2. All fees shall be made payable to: Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353 and R.S. 51:936.2.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:980 (May 2004), amended LR 36:310 (February 2010), amended by the Department of Economic Development, Office of Business Development, LR 42:224 (February 2016).

**§2719. Applicability of Act 125 of the 2015 Legislative
Session to the Technology Commercialization
Credit and Jobs Program**

A. Pursuant to Act 125 of the 2015 Regular Session of the Louisiana Legislature, applications approved on or after July 1, 2015, are subject to the following reductions from July 1, 2015, through June 30, 2018:

1. technology commercialization credits—28.8 percent of the amount of the investment;

2. technology jobs credits—4.32 percent of payroll for new direct jobs.

B. Applications approved prior to July 1, 2015, are not affected by Act 125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2353 and R.S. 51:936.2.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 42:224 (February 2016).

Anne G. Villa
Undersecretary

1602#041

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices
(LAC 28:CXI.Chapters 11, 13, 17, 18, 19, 23, and 24)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Part CXI, *Bulletin 118—Statewide Assessment Standards and Practices*: §1113, Achievement Levels; §1115, Performance Standards; §1701, Introduction; §1705, Introduction; and §1707, Performance Standards; and the repeal of Bulletin 118, *Statewide Assessment Standards and Practices*: §1125, Introduction; §1127, Grade 4 Achievement Level Descriptors; §1129, Grade 8

Achievement Level Descriptors; §1141, Content Standards; §1143, English Language Arts Test Structure; §1145, Mathematics Test Structure; §1147, Science Tests Structure; §1149 Social Studies Tests Structure; §1335, Content Standards; §1337, English Language Arts Tests Structure; §1339, Mathematics Test Structure; §1341, Science Test Structure; §1343, Social Studies Tests Structure; §1349, Rescores; §1351, GEE Administration Rules; §1353, Summer Retest Administration; §1355, GEE Transfer Students; §1357, Student Membership Determination; §1703, Format; §1709, Introduction; §1711, Grade 3 Achievement Level Descriptors; §1713, Grade 5 Achievement Level Descriptors; §1715, Grade 6 Achievement Level Descriptors; §1717, Grade 7 Achievement Level Descriptors; §1719, Grade 9 Achievement Level Descriptors; §1721, Content Standards; §1723, English Language Arts Tests Structure; §1725, Math Tests Structure; §1727, Science Tests Structure; §1729, Social Studies Tests Structure; §1805, Algebra I Test Structure; §1806, Biology Test Structure; §1807, English II Test Structure; §1808, Geometry Test Structure; §1809, U.S. History Test Structure; §1810, English III Test Structure; §1815, Introduction; §1817, EOCT Achievement Level Descriptors; §1907, Test Structure; §1909, Scoring; §1915, Introduction; §1917, Grade Span 3-4 Alternate Achievement Level Descriptors; §1919, Grade Span 5-6 Alternate Achievement Level Descriptors; §1921, Grade Span 7-8 Alternate Achievement Level Descriptors; §1923, Grade Span 9-10 Alternate Achievement Level Descriptors; §1925, LAA 1 Science Alternate Achievement Level Descriptors; §2305, Format; §2313, Introduction; §2315, Proficiency Level Descriptors; §2317, Listening Domain Structure; §2319, Speaking Domain Structure; §2321, Reading Domain Structure; §2323, Writing Domain Structure; §2401, Description; §2403, Introduction; §2405, Format; §2407, Membership; §2409, Achievement Levels; §2411, Performance Standards; §2412, Introduction; §2413, ASA Mathematics Achievement Level Descriptors; and §2415, ASA LAA2 Mathematics Achievement Level Descriptors. The revisions update policy to align with state law.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 11. Louisiana Educational Assessment Program

Subchapter B. Achievement Levels and Performance Standards

§1113. Achievement Levels

A.1. The Louisiana achievement levels are:

- a. advanced;
- b. mastery;
- c. basic;
- d. approaching basic; and
- e. unsatisfactory.

A.2. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 42:225 (February 2016).

§1115. Performance Standards

A. Performance standards for LEAP English Language Arts, Mathematics, Science, and Social Studies tests are finalized in scaled-score form. The scaled scores range between 100 and 500 for science and social studies, and between 650 and 850 for English language arts and mathematics.

B. LEAP Achievement Levels and Scaled Score Ranges—Grade 4

| Achievement Level | English Language Arts Scaled Score Range | Mathematics Scaled Score Range | Science Scaled Score Range | Social Studies Scaled Score Range |
|-------------------|--|--------------------------------|----------------------------|-----------------------------------|
| Advanced | 790-850 | 796-850 | 405-500 | 399-500 |
| Mastery | 750-789 | 750-795 | 360-404 | 353-398 |
| Basic | 725-749 | 725-749 | 306-359 | 301-352 |
| Approaching Basic | 700-724 | 700-724 | 263-305 | 272-300 |
| Unsatisfactory | 650-699 | 650-699 | 100-262 | 100-271 |

C. LEAP Achievement Levels and Scaled Score Ranges—Grade 8

| Achievement Level | English Language Arts Scaled Score Range | Mathematics Scaled Score Range | Science Scaled Score Range | Social Studies Scaled Score Range |
|-------------------|--|--------------------------------|----------------------------|-----------------------------------|
| Advanced | 794-850 | 801-850 | 400-500 | 404-500 |
| Mastery | 750-793 | 750-800 | 345-399 | 350-403 |
| Basic | 725-749 | 725-749 | 305-344 | 297-349 |
| Approaching Basic | 700-724 | 700-724 | 267-304 | 263-296 |
| Unsatisfactory | 650-699 | 650-699 | 100-266 | 100-262 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 32:235 (February 2006), LR 42:225 (February 2016).

Subchapter C. LEAP Achievement Level Descriptors

§1125. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1536 (July 2005), repealed LR 42:225 (February 2016).

§1127. Grade 4 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, LR 31:1536 (July 2005), amended LR 36:968 (May 2010), LR 39:1423 (June 2013), repealed LR 42:225 (February 2016).

§1129. Grade 8 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1540 (July 2005), amended LR 36:974 (May 2010), LR 39:1424 (June 2013), repealed LR 42:225 (February 2016).

Subchapter D. LEAP Assessment Structure

§1141. Content Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1545 (July 2005), amended LR 32:236 (February 2006), repealed LR 42:226 (February 2016).

§1143. English Language Arts Tests Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1545 (July 2005), repealed LR 42:226 (February 2016).

§1145. Mathematics Tests Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1545 (July 2005), repealed LR 42:226 (February 2016).

§1147. Science Tests Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1546 (July 2005), repealed LR 42:226 (February 2016).

§1149. Social Studies Tests Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1546 (July 2005), repealed LR 42:226 (February 2016).

Chapter 13. Graduation Exit Examination

Subchapter D. GEE Assessment Structure

§1335. Content Standards

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1552 (July 2005), amended LR 32:237 (February 2006), repealed LR 42:226 (February 2016).

§1337. English Language Arts Tests Structure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1552 (July 2005), repealed LR 42:226 (February 2016).

§1339. Mathematics Tests Structure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1552 (July 2005), repealed LR 42:226 (February 2016).

§1341. Science Test Structure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1553 (July 2005), repealed LR 42:226 (February 2016).

§1343. Social Studies Tests Structure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1553 (July 2005), repealed LR 42:226 (February 2016).

§1349. Rescores

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006), LR 36:977 (May 2010), repealed LR 42:226 (February 2016).

§1351. GEE Administration Rules

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1554 (July 2005), amended LR 32:237 (February 2006), LR 32:391 (March 2006), LR 34:67 (January 2008), repealed LR 42:226 (February 2016).

§1353. Summer Retest Administration

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1555 (July 2005), repealed LR 42:226 (February 2016).

§1355. GEE Transfer Students

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1555 (July 2005), amended LR 32:238 (February 2006), LR 34:68 (January 2008), repealed LR 42:226 (February 2016).

§1357. Student Membership Determination

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), repealed LR 42:226 (February 2016).

Chapter 17. Integrated LEAP

Subchapter A. General Provisions

§1701. Introduction

A. The iLEAP is a criterion-referenced testing program that is directly aligned with the state content standards. The LEAP measures how well students in grades three, five, six and seven have mastered the state content standards. Test results are reported in terms of achievement levels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:238 (February 2006), LR 33:265 (February 2007), LR 39:75 (January 2013), LR 42:226 (February 2016).

Subchapter B. iLEAP Test Design

§1703. Format

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:265 (February 2007), repealed LR 42:227 (February 2016).

Subchapter C. Achievement Levels and Performance Standards

§1705. Introduction

A. On each test (English language arts, math, science, and social studies) student performance will be reported in terms of achievement level. The Louisiana achievement levels are:

1. advanced;
2. mastery;
3. basic;
4. approaching basic; and
5. unsatisfactory.

B. Achievement Levels Definitions

1. *Advanced*—a student at this level has demonstrated superior performance beyond the mastery level.

2. *Mastery* (formerly *Proficient*)—a student at this level has demonstrated competency over challenging subject matter and is well prepared for the next level of schooling.

3. *Basic*—a student at this level has demonstrated only the fundamental knowledge and skills needed for the next level of schooling.

4. *Approaching Basic*—a student at this level has only partially demonstrated the fundamental knowledge and skills needed for the next level of schooling.

5. *Unsatisfactory*—a student at this level has not demonstrated the fundamental knowledge and skills needed for the next level of schooling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:266 (February 2007), amended LR 42:227 (February 2016).

§1707. Performance Standards

A. iLEAP Achievement Levels and Scaled Score Ranges—Grades 3, 5, 6, and 7

| Achievement Level | Science Scaled Score Ranges | | | | |
|-------------------|-----------------------------|---------|---------|---------|--------------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 | Grade 9 |
| Advanced | 382-500 | 378-500 | 380-500 | 388-500 | Not Assessed |
| Mastery | 342-381 | 341-377 | 343-379 | 348-387 | |
| Basic | 292-341 | 292-340 | 295-342 | 302-347 | |
| Approaching Basic | 249-291 | 248-291 | 251-294 | 259-301 | |
| Unsatisfactory | 100-248 | 100-247 | 100-250 | 100-258 | |

| Achievement Level | Social Studies Scaled Score Ranges | | | | |
|-------------------|------------------------------------|---------|---------|---------|--------------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 | Grade 9 |
| Advanced | 396-500 | 365-500 | 364-500 | 372-500 | Not Assessed |
| Mastery | 341-395 | 339-364 | 338-363 | 339-371 | |
| Basic | 287-340 | 289-338 | 292-337 | 293-338 | |
| Approaching Basic | 255-286 | 257-288 | 261-291 | 262-292 | |
| Unsatisfactory | 100-254 | 100-256 | 100-260 | 100-261 | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:266 (February 2007), LR 42:227 (February 2016).

Subchapter D. iLEAP Achievement Level Descriptors

§1709. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:990 (June 2007), repealed LR 42:227 (February 2016).

§1711. Grade 3 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:991 (June 2007), amended LR 39:1425 (June 2013), repealed LR 42:227 (February 2016).

§1713. Grade 5 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:994 (June 2007), amended LR 39:1427 (June 2013), repealed LR 42:227 (February 2016).

§1715. Grade 6 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:999 (June 2007), amended LR 39:1428 (June 2013), repealed LR 42:227 (February 2016).

§1717. Grade 7 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1002 (June 2007), amended LR 39:1429 (June 2013), repealed LR 42:227 (February 2016).

| Achievement Level | English Language Arts Scaled Score Ranges | | | |
|-------------------|---|---------|---------|---------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 |
| Advanced | 810-850 | 799-850 | 790-850 | 785-850 |
| Mastery | 750-809 | 750-798 | 750-789 | 750-784 |
| Basic | 725-749 | 725-749 | 725-749 | 725-749 |
| Approaching Basic | 700-724 | 700-724 | 700-724 | 700-724 |
| Unsatisfactory | 650-699 | 650-699 | 650-699 | 650-699 |

| Achievement Level | Mathematics Scaled Score Ranges | | | |
|-------------------|---------------------------------|---------|---------|---------|
| | Grade 3 | Grade 5 | Grade 6 | Grade 7 |
| Advanced | 790-850 | 790-850 | 788-850 | 786-850 |
| Mastery | 750-789 | 750-789 | 750-787 | 750-785 |
| Basic | 725-749 | 725-749 | 725-749 | 725-749 |
| Approaching Basic | 700-724 | 700-724 | 700-724 | 700-724 |
| Unsatisfactory | 650-699 | 650-699 | 650-699 | 650-699 |

§1719. Grade 9 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1006 (June 2007), repealed LR 42:228 (February 2016).

Subchapter E. iLEAP Assessment Structure

§1721. Content Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:1007 (June 2007), repealed LR 42:228 (February 2016).

§1723. English Language Arts Tests Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:267 (February 2007), repromulgated LR 33:1007 (June 2007), repealed LR 42:228 (February 2016).

§1725. Math Tests Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:268 (February 2007), repromulgated LR 33:1008 (June 2007), repealed LR 42:228 (February 2016).

§1727. Science Tests Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:269 (February 2007), repromulgated LR 33:1009 (June 2007), repealed LR 42:228 (February 2016).

§1729. Social Studies Tests Structure

Repealed.

AUTHORITY NOTE; Promulgated in accordance with R.S. 17:24.4(A)(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:269 (February 2007), repromulgated LR 33:1009 (June 2007), repealed LR 42:228 (February 2016).

Chapter 18. End-of-Course Tests

Subchapter C. EOC Test Design

§1805. Algebra I Test Structure

[Formerly §1807]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), repromulgated LR 39:76 (January 2013), repealed LR 42:228 (February 2016).

§1806. Biology Test Structure

[Formerly §1808]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:35 (January 2012), repromulgated LR 39:76 (January 2013), repealed LR 42:228 (February 2016).

§1807. English II Test Structure

[Formerly §1809]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), repromulgated LR 39:76 (January 2013), repealed LR 42:228 (February 2016).

§1808. Geometry Test Structure

[Formerly §1810]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 37:859 (March 2011), repromulgated LR 39:76 (January 2013), repealed LR 42:228 (February 2016).

§1809. U.S. History Test Structure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:76 (January 2013), repealed LR 42:228 (February 2016).

§1810. English III Test Structure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:76 (January 2013), repealed LR 42:228 (February 2016).

Subchapter E. Achievement Level Descriptors

§1815. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:215 (February 2009), repealed LR 42:228 (February 2016).

§1817. EOCT Achievement Level Descriptors

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 35:216 (February 2009), amended LR 36:478 (March 2010), LR 37:820 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:36 (January 2012), LR 39:76 (January 2013), LR 39:1020 (April 2013), repealed LR 42:228 (February 2016).

Chapter 19. LEAP Alternate Assessment, Level 1

Subchapter D. LAA 1 Test Design

§1907. Test Structure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:425 (March 2007), amended LR 35:209 (February 2009), repealed LR 42:228 (February 2016).

§1909. Scoring

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007), amended LR 35:209 (February 2009), repealed LR 42:229 (February 2016).

Subchapter F. Alternate Achievement Level Descriptors

§1915. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007), amended LR 35:210 (February 2009), repealed LR 42:229 (February 2016).

§1917. Grade Span 3-4 Alternate Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007), amended LR 35:2210 (February 2009), repealed LR 42:229 (February 2016).

§1919. Grade Span 5-6 Alternate Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 35:210 (February 2009), repealed LR 42:229 (February 2016).

§1921. Grade Span 7-8 Alternate Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 35:211 (February 2009), repealed LR 42:229 (February 2016).

§1923. Grade Span 9-10 Alternate Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 35:212 (February 2009), repealed LR 42:229 (February 2016).

§1925. LAA 1 Science Alternate Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 35:212 (February 2009), repealed LR 42:229 (February 2016).

Chapter 23. English Language Development Assessment (ELDA)

Subchapter C. ELDA Test Design

§2305. Format

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:259 (February 2007), amended LR 34:2556 (December 2008), repromulgated LR 35:61 (January 2009), repealed LR 42:229 (February 2016).

Subchapter F. ELDA Proficiency Level Descriptors

§2313. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007), repealed LR 42:229 (February 2016).

§2315. Proficiency Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007), repealed LR 42:229 (February 2016).

Subchapter G. ELDA Assessment Structure

§2317. Listening Domain Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007), repealed LR 42:229 (February 2016).

§2319. Speaking Domain Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:261 (February 2007), repealed LR 42:229 (February 2016).

§2321. Reading Domain Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:262 (February 2007), repealed LR 42:229 (February 2016).

§2323. Writing Domain Structure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:262 (February 2007), repealed LR 42:229 (February 2016).

Chapter 24. Academic Skills Assessment (ASA)

Subchapter A. Background

§2401. Description

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:36 (January 2012), repealed LR 42:229 (February 2016).

Subchapter B. General Provisions

§2403. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:36 (January 2012), repealed LR 42:230 (February 2016).

Subchapter C. ASA Test Design

§2405. Format

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:37 (January 2012), repealed, LR 42:230 (February 2016).

Subchapter D. Target Population

§2407. Membership

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:37 (January 2012), repealed LR 42:230 (February 2016).

§2409. Achievement Levels

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(1) and (C).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013), repealed LR 42:230 (February 2016).

§2411. Performance Standards

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013), repealed LR 42:230 (February 2016).

Subchapter F. Achievement Level Descriptors

§2412. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(B).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013), repealed LR 42:230 (February 2016).

§2413. ASA Mathematics Achievement Level

Descriptors

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:78 (January 2013), repealed LR 42:230 (February 2016).

§2415. ASA LAA 2 Mathematics Achievement Level

Descriptors

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:79 (January 2013), repealed LR 42:230 (February 2016).

Shan N. Davis
Executive Director

1602#009

RULE

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School Transportation
Specifications and Procedures
(LAC 28:CXIII.501, 903, 907, 1301, and 1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: §501, Driver Training Program; §903, Loading and Unloading; §907, Intersections, Turns, Driving Speeds, and Interstate Driving; §1301, Safe Riding Practices; and §1303, Emergency Exit Drills. The policy revisions to §903 are required by Act 421 and the revisions to §501 are required by SCR 92 of the 2015 Regular Legislative Session. Other revisions are necessary to update the policy and to correct errors.

Title 28

EDUCATION

Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures Chapter 5. Instructional Program for School Bus Drivers

§501. Driver Training Program

A. - G.5. ...

H. Evaluation of Private Provider Curricula. Curricula developed by private providers for training Louisiana school bus drivers must be submitted to the DOE prior to use for training pre-service drivers. The criteria below will be used by reviewers to evaluate curricula submitted to the DOE for consideration.

1. Does the curriculum include training and topics required in Bulletin 119?

2. Does the curriculum incorporate applicable *Louisiana Revised Statutes* and BESE policies and procedures detailed in Bulletin 119 or other sources?

3. Does the curriculum content conflict with *Louisiana Revised Statutes* and BESE policies and procedures detailed in Bulletin 119 or other sources?

4. Does the curriculum content adhere to specifications in R.S. 17:164 or with best practices, as described in the National Congress on School Transportation publication *Specifications and Procedures*?

5. Does the curriculum adhere to applicable federal motor vehicle safety standards for school buses, as promulgated by the National Highway Traffic Safety Administration of the U.S. Department of Transportation?

6. Does the curriculum comply with regulations for drivers of commercial motor vehicles, as promulgated by the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation?

7. Is the curriculum appropriate for new trainees with limited driving experience in operating commercial motor vehicles?

8. Are reproducibles or other training materials available for use as handouts for participants?

I. Training and Certification of Private Providers

1. Private providers who wish to conduct pre-service training of Louisiana school bus drivers must comply with the requirement that all school bus drivers in Louisiana

receive pre-service certification by successfully completing the Louisiana school bus operator training course conducted by DOE-certified trainers.

2. The DOE will certify qualified private providers to deliver required training to Louisiana bus drivers, provided the curriculum includes the training topics prescribed by the DOE. Private providers' trainers must attend and complete the DOE instructor program after the provider's curriculum has been evaluated and approved.

J. Drivers who become certified within a year after pre-service training do not have to complete additional in-service training that same school year unless so required by the LEA.

K. Exemptions based on verification of previously completed courses or job-related experiences are approved at the discretion of the LEA.

L. The required 44 hours of pre-service training shall consist of the following three phases and are described in the subsequent Section:

1. classroom instruction (30 hours);
2. vehicle familiarization and operation (behind the wheel) training (4 hours); and
3. on-the-bus training (10 hours).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 37:2122 (July 2011), LR 38:749 (March 2012), LR 42:230 (February 2016).

Chapter 9. Vehicle Operation

§903. Loading and Unloading

A. - A.2. ...

B. Locations

1. It is the bus driver's responsibility to select a safe stopping point within LEA guidelines for students to load and unload from the school bus, even if this requires students to walk a distance.

2. Students shall be loaded or unloaded on a shoulder unless the LEA determines that loading or unloading on a shoulder is less safe for the student. If there is no shoulder or if the shoulder is determined to be less safe, a bus driver may load or unload a student while the bus is in a lane of traffic but only if the bus is in the lane farthest to the right side of the road so that there is not a lane of traffic between the bus and the right-side curb or other edge of the road.

3. A driver shall not load or unload a student in a location on a divided highway such that a student, in order to walk between the bus and his home or school, would be required to cross a roadway of the highway on which traffic is not controlled by the visual signals on the school bus.

4. Buses shall not stop within intersections to pick up or discharge students.

5. The school bus shall not be operated on school grounds except to pick up and discharge students or during student safety instruction exercises, but then only when students are carefully supervised.

C. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, and R.S. 32:318.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999),

amended LR 25:2169 (November 1999), LR 36:1470 (July 2010), LR 37:2123 (July 2011), LR 42:231 (February 2016).

§907. Intersections, Turns, Driving Speeds, and Interstate Driving

A. - A.3. ...

4. School buses shall not stop within intersections to pick up or to discharge students.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 32:62.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1472 (July 2010), LR 37:3204 (November 2011), LR 42:231 (February 2016).

Chapter 13. Student Instruction

§1301. Safe Riding Practices

A. - C. ...

D. The designated school administrator shall complete the safe riding practices classroom instruction form (Form T-7) each semester and send the completed form to the transportation office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:95, R.S. 17:223, R.S. 17:240, R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:405, and R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:839 (May 1999), amended LR 36:1473 (July 2010), LR 42:231 (February 2016).

§1303. Emergency Exit Drills

A. ...

B. One emergency exit drill shall be held during the first six weeks of each school semester. LEA administrators must provide opportunities at the beginning of each semester for all students riding a school bus to and from school and/or school-related activities to participate in emergency drill exits.

C. The designated school administrator shall complete the emergency evacuation drill verification form (Form T-8) each semester and send the completed form to the transportation office.

D. Three exit drill methods are required.

1. All passengers exit through the service (front) door.

2. All passengers exit through the rear emergency exit.

3. Passengers in the front half of the bus exit through the service door; passengers in the rear half exit through the rear emergency exit.

E. If an additional emergency exit door is installed on the bus, passengers should be taught how to exit through this door. It is not necessary to require exiting through emergency exit windows and roof-top hatches during drills, but evacuation procedures using these exits should be explained to passengers.

F. The following guidelines are given for conducting the emergency exit drills:

1. have a local written policy covering the drills;

2. school officials should schedule drills with drivers;

3. practice drills on school grounds, during school hours, in a safe place, and under supervision of the principal or by persons assigned by the principal to act in a supervisory capacity;

4. time and record each drill;

5. practice exiting the bus through the service (front) door and the emergency rear and/or side door. Instruct students on use of other available emergency exits; and

6. students shall practice going a distance of at least 100 feet from the bus and remain there in a group until further directions are given by the principal or persons assigned by the principal to act in a supervisory capacity. Practice drills must provide instruction for student helpers to assist passengers from the bus. Further direction regarding student helpers is discussed in §1307. Students must be instructed in how and where to get help in emergencies.

G. Important Factors Pertaining to School Bus Evacuation Drills

1. Safety of students is of the utmost importance and must be considered first.

2. All drills should be supervised by the principal or by persons assigned to act in a supervisory capacity.

3. The bus driver is responsible for the safety of the students. In the event of driver incapacitation, see Section 1307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999), amended LR 36:1474 (July 2010), LR 37:2123 (July 2011), LR 42:231 (February 2016).

Shan N. Davis
Executive Director

1602#010

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV. Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; §2319, The Career Diploma; and §2325, Advanced Placement and International Baccalaureate. The policy revisions are required to correct omissions, make technical edits, and update policy.

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.1.e.i. ...
- f. Physical education—1 1/2 units:
- shall be physical education I; and
 - 1/2 unit from among the following:
 - physical education II;
 - marching band;
 - extracurricular sports;
 - cheerleading; or
 - dance team;
 - ROTC may be substituted;
 - adaptive physical education for eligible special education students may be substituted.
- g. Electives—8 units:

i. shall include the minimum courses required to complete a career area of concentration for incoming freshmen 2010-2011 and beyond.

(a). The area of concentration shall include one unit of education for careers, journey to careers, or JAG.

h. Total—24 units.

2. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana Core 4 curriculum, the minimum course requirements shall be the following.

NOTE: For courses indicated with *, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in §2325 may be substituted.

a. - c.iii.(h). ...

(i). environmental science*;

c.iii.(j). - j. ...

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

a. - g.iv. ...

h. health education—1/2 unit;

NOTE: JROTC I and II may be used to meet the health education requirement. Refer to §2347.

i. electives—three units;

j. total—24 units.

4. - 6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 42:232 (February 2016).

§2319. The Career Diploma

A. - C.1.c.v. ...

d. social studies—3 units:

i. U.S. history;

ii. civics (1 unit) or 1/2 unit of civics and 1/2 unit of Free Enterprise;

NOTE: Students entering the ninth grade in 2011-2012 and beyond must have one unit of Civics with a section on Free Enterprise.

iii. The remaining unit shall come from the following:

d.iii.(a). - g. ...

i. education for careers, journey to careers, or JAG;

ii. six credits required for a career area of concentration.

h. Total—23 units.

2. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. - c.ii.(f). ...

d. social studies—2 units:

i. 1 of the following:

- (a). U.S. history;
- (b). AP U.S. history;
- (c). IB history of the Americas I;
- ii. 1 unit of civics or:
 - 2.d.ii.(a). - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 42:232 (February 2016).

§2325. Advanced Placement and International Baccalaureate

A. Each high school shall provide students access to at least one advanced placement (AP) or international baccalaureate (IB) courses in each of four content areas and one additional AP or IB course.

B. High school credit shall be granted to a student successfully completing an AP course or an IB course, regardless of his test score on the examination provided by the college board or on the IB exam. Students must complete the entire course to receive any credit for a course designated as AP or IB.

1. Procedures established by the college board must be followed.

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

B. Content and Pedagogy Requirements

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 34:2032 (October 2008), LR 37:3198 (November 2011), LR 38:759 (March 2012), LR 38:1584 (July 2012), LR 38:2363 (September 2012), LR 39:2216 (August 2013), LR 42:233 (February 2016).

Shan N. Davis
Executive Director

1602#011

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §243, PRAXIS Exams and Scores. The policy revision sets the passing score for the PRAXIS exam for individuals who complete the new birth to kindergarten undergraduate teacher preparation program.

**Title 28
EDUCATION**

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

A. - A.2. ...

| Certification Area | Name of Praxis Test | Content Exam Score | Pedagogy: Principles of Learning and Teaching | | |
|-------------------------|---|--------------------|---|-------------------------|--------------------------|
| | | | PLT K-6 (#0622 or 5622) | PLT 5-9 (#0623 or 5623) | PLT 7-12 (#0624 or 5624) |
| Birth to Kindergarten | Early Childhood Content Knowledge (5022/5025 after September 2015) | 160 (for 5022) | PLT: Early Childhood 0621 or 5621 (Score 157) | | |
| | Early Childhood Education (5025) | 156 (for 5025) | | | |
| | OR | | | | |
| | Education of Young Children (5024) | 160 | | | |
| | OR | | | | |
| | PreK Education (5531) | 155 | | | |
| Early Childhood PK-3 | Elementary Content Knowledge (0014 or 5014) prior to 9/1/15 | 150 | PLT: Early Childhood 0621 or 5621 (Score 157) | | |
| Early Childhood PK-3 | Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) | 163 | PLT: Early Childhood 0621 or 5621 (Score 157) | | |
| | OR | | | | |
| | Elementary Education: Multiple Subjects (5001) | | | | |
| | • Reading/Language Arts(5002) | 157 | | | |
| | • Mathematics (5003) | 157 | | | |
| • Social Studies (5004) | 155 | | | | |
| • Science (5005) | 159 | | | | |

| Certification Area | Name of Praxis Test | Content Exam Score | Pedagogy: Principles of Learning and Teaching | | |
|-----------------------------------|---|---|---|-------------------------|--------------------------|
| | | | PLT K-6 (#0622 or 5622) | PLT 5-9 (#0623 or 5623) | PLT 7-12 (#0624 or 5624) |
| | Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) <ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) | 157 157 155 159 | | | |
| Grades 1-5 | Elementary Content Knowledge (0014 or 5014) prior to 9/1/15 | 150 | 160 | --- | --- |
| Grades 1-5 | Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001) <ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001) <ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) | 163 157 157 155 159 157 157 155 159 | 160 | | |
| Grades 4-8 Mathematics | Middle School Mathematics (0069) Prior to 1/1/14 Middle School Mathematics (5169) Effective 1/1/14 | 148 165 | --- | 160 | --- |
| Grades 4-8 Science | Middle School Science (0439) Prior to 6/8/14 Middle School Science (5440) Effective 6/8/14 | 150 150 | --- | 160 | --- |
| Grades 4-8 Social Studies | Middle School Social Studies (0089 or 5089) | 149 | --- | 160 | --- |
| Grades 4-8 English/ Language Arts | Middle School English/Language Arts (0049 or 5049) Prior to 1/1/14 Middle School English (5047) Effective 1/1/14 | 160 164 | --- | 160 | --- |

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016).

Shan N. Davis
Executive Director

1602#012

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.133 and 905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*: §133, Expenditures; and §905, Definitions. The revisions update policy to align with federal law and correct the placement of a Subchapter title.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations
for Implementation of the
Children with Exceptionalities Act
Subpart 1. Students with Disabilities
Chapter 1. State Eligibility
Subchapter F. Students with Disabilities Enrolled by
their Parents in Private Schools

§133. Expenditures

A. - E.3.a. ...

i. A student shall be eligible to participate in the program after submission of an application to the Louisiana Department of Education on a timeline established by the department and in accordance with the following requirements:

(a). evaluation of the student by a local education agency as defined in R.S. 17:1942 and resulting in a determination that services are required for one of the following exceptionalities:

- (i). autism;
- (ii). intellectual disability;
- (iii). emotional disturbance;
- (iv). developmental delay;
- (v). other health impairment;
- (vi). specific learning disability; or
- (vii). traumatic brain injury;

3.a.i.(b). - 8.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4031 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2041 (October 2008), amended LR 38:1401 (June 2012), LR 40:2533 (December 2014), LR 42:235 (February 2016).

Chapter 9. General

Subchapter B. Definitions used in these Regulations

§905. Definitions

* * *

Intellectual Disability—see *student with a disability*.

* * *

Student with a Disability—

1. General

a. *Student with a Disability*—a student evaluated in accordance with §§305 through 312 of these regulations and determined as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in these regulations as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

1.b.i. - 3.e. ...

f. *Intellectual Disability*—significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a student’s educational performance.

g. *Multiple Disabilities*—concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which

causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term *multiple disabilities* does not include deaf-blindness.

h. - j.i. ...

ii. Disorders not Included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

k. - m. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 36:1505 (July 2010), LR 38:2368 (September 2012), LR 42:235 (February 2016).

Shan N. Davis
Executive Director

1602#013

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Expedited Penalty Agreement
(LAC 33:I.Chapter 8)(OS088)

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 Office of the Secretary regulations, LAC 33:I.801, 805 and 807 (OS088).

This Rule amends and updates the violations in the air quality, hazardous waste, solid waste, underground storage tanks, water quality, and radiation protection provisions in the expedited penalty program contained in LAC 33:I.807. The Rule also clarifies various existing violations, and appropriately adjusts existing penalty amounts to make the amounts consistent with penalty amounts in the proposed Rule.

The original expedited penalty agreement Rule, LAC 33:I.Chapter 8, became final on December 20, 2006. Since that time, the department has determined additional violations may qualify for coverage under the expedited penalty agreement provisions set forth in LAC 33:I.Chapter 8. Just like the existing Rule, this Rule provides an alternative penalty assessment mechanism that the department may utilize to expedite the assessment of penalties in appropriate cases. The department issues expedited penalties at its discretion based upon the circumstances associated with the violations. Entering into an expedited penalty agreement with the department is voluntary, the respondent retains the right to either enter into, or not enter into, the agreement. 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 I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures
Chapter 8. Expedited Penalty Agreement
§801. Definitions**

* * *

LAR050000—Repealed.

LAR100000—Repealed.

LPDES General Permit—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1393 (July 2008), amended by the Office of the Secretary, Legal Division, LR 42:236 (February 2016).

§805. Applicability

A. - D. ...

E. Nine Factors for Consideration. An expedited penalty agreement may be used to assess a monetary penalty for a violation or violations cited in an enforcement action that includes a notice of potential penalty component. An expedited penalty agreement may be used only when the following criteria for the nine factors for consideration listed in R.S. 30:2025(E)(3)(a) are satisfied.

1. The History of Previous Violations or Repeated Noncompliance. An expedited penalty agreement may be utilized to assess a monetary penalty only for a violation that is not a repeat occurrence of a violation that was cited in any compliance order, penalty assessment, settlement agreement, or expedited penalty agreement issued to or entered into with the respondent by the department within the previous two years, and occurred at a facility under the same agency interest number. Site-specific enforcement history considerations will only apply to expedited penalty agreements.

E.2. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2242 (December 2006), amended by the Office of the Secretary, Legal Division, LR 42:236 (February 2016).

§807. Types of Violations and Expedited Penalty Amounts

A. The types of violations listed in the following tables may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

| EXPEDITED PENALTIES | | | |
|---------------------|----------|--------|-----------|
| ALL MEDIA | | | |
| Violation | Citation | Amount | Frequency |
| Repealed. | | | |

| EXPEDITED PENALTIES | | | |
|---|-----------------|--------|----------------|
| OFFICE OF THE SECRETARY | | | |
| Violation | Citation | Amount | Frequency |
| Failure to submit a timely NOC-1 within one year of changes in the name only of a facility or of its owner/operator. | LAC 33:I.1905.A | \$250 | Per occurrence |
| Failure to provide timely notification for the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition. | LAC 33:I.3917.A | \$500 | Per occurrence |
| Failure to provide prompt notification of any unauthorized discharge that results in the contamination of the groundwaters of the state or that otherwise moves in, into, within, or on any saturated subsurface strata in accordance with LAC 33:I.3923. | LAC 33:I.3919.A | \$500 | Per occurrence |
| Failure to provide timely written notification of the unauthorized discharge of any material that exceeds the reportable quantity but does not cause an emergency condition. | LAC 33:I.3925.A | \$500 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--|--------------------|--------|----------------|
| AIR QUALITY | | | |
| Violation | Citation | Amount | Frequency |
| Failure to submit a timely and complete permit application prior to construction, but the application was submitted within one year from the start of construction of a facility that is eligible for coverage under a Minor Source Permit or a Minor Source - Air General Permit for a crude oil and/or natural gas facility. | LAC 33:III.501.C.1 | \$250 | Per occurrence |
| Failure to submit a timely and complete permit application prior to reconstruction or modification, but submitted the application within one year from the start of reconstruction or modification of a facility that is permitted under a Minor Source Permit or a Minor Source - Air General Permit for a crude oil and/or natural gas facility. | LAC 33:III.501.C.1 | \$250 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--|-----------------------|---------|----------------|
| AIR QUALITY | | | |
| Violation | Citation | Amount | Frequency |
| Failure to obtain a Minor Source Permit or a Minor Source Permit - Air General Permit, but obtained the necessary permit within one year after commencement of operations of a crude oil and/or natural gas facility that may result in the initiation of emission of air contaminants. | LAC 33:III.501.C.2 | \$1,000 | Per occurrence |
| Failure to obtain a Minor Source Permit or a Minor Source Permit - Air General Permit, but obtained the necessary permit within two years after commencement of operations of a crude oil and/or natural gas facility that may result in the initiation of emission of air contaminants. | LAC 33:III.501.C.2 | \$1,500 | Per occurrence |
| Failure to timely submit any applicable Specific Condition or General Condition report as specified in any minor source permit. | LAC 33:III.501.C.4 | \$250 | Per occurrence |
| Failure to timely submit any applicable Specific Condition or General Condition report (other than those specified elsewhere in this Section) as specified in a Part 70 (Title V) air permit. | LAC 33:III.501.C.4 | \$350 | Per occurrence |
| 40 CFR Part 70 General Permit conditions (Part K, L, M, or R): Failure to timely submit any applicable annual or semiannual report. | LAC 33:III.501.C.4 | \$500 | Per occurrence |
| Failure to submit the Title V permit renewal application at least six months prior to the expiration date of the current permit, but obtained the renewal permit on or before the expiration date of the current permit. | LAC 33:III.507.E.4 | \$1,000 | Per occurrence |
| Failure to provide notice of change of ownership within 45 days after the change. | LAC 33:III.517.G | \$250 | Per occurrence |
| Failure to submit a complete Annual Criteria Pollutant Emissions Inventory in a timely manner when applicable. | LAC 33:III.919 | \$500 | Per occurrence |
| Failure to take all reasonable precautions to prevent particulate matter from becoming airborne. | LAC 33:III.1305.A | \$750 | Per occurrence |
| Failure to install and maintain tarps in an abrasive blasting facility. | LAC 33:III.1329.C.1-3 | \$750 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|---|------------------------|--------|----------------|
| AIR QUALITY | | | |
| Violation | Citation | Amount | Frequency |
| Failure to prevent blasting material or visible floating solids from reaching waters of the state, minimized to the maximum extent possible as specified in the facility and/or activity BMP, or in accordance with the LPDES permit program. | LAC 33:III.1329.E | \$750 | Per occurrence |
| Failure to use and diligently maintain in proper working order all emission control equipment according to the manufacturer's specifications whenever any emissions are being generated that can be controlled by the facility, even if the ambient air quality standards in affected areas are not exceeded. | LAC 33:III.1329.H | \$750 | Per violation |
| Failure to maintain records on the facility premises at all times, and present them to an authorized representative of the department upon request. | LAC 33:III.1333.A or B | \$200 | Per record |
| Failure to maintain records for glycol dehydrators subject to LAC 33:III.2116. | LAC 33:III.2116.F | \$250 | Per occurrence |
| Failure to submit a complete Annual Toxic Emissions Data Inventory in a timely manner when applicable. | LAC 33:III.5107.A | \$500 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|----------------------|----------|--------|-----------|
| AIR QUALITY—Asbestos | | | |
| Violation | Citation | Amount | Frequency |
| *** | | | |

| EXPEDITED PENALTIES | | | |
|---------------------|----------|--------|-----------|
| AIR QUALITY—Lead | | | |
| Violation | Citation | Amount | Frequency |
| *** | | | |

| EXPEDITED PENALTIES | | | |
|-------------------------------------|----------|--------|-----------|
| AIR QUALITY—Stage II Vapor Recovery | | | |
| Violation | Citation | Amount | Frequency |
| *** | | | |

| EXPEDITED PENALTIES | | | |
|---|---|--------|-------------------------|
| AIR QUALITY—CHEMICAL ACCIDENT PREVENTION | | | |
| Violation | Citation | Amount | Frequency |
| Failure to ensure current and newly assigned employees have received initial and refresher training as specified (five or fewer employees). | LAC 33:III.5901.A, as described by 40 CFR 68.54 (a-d) (Program 2) | \$500 | Per occurrence/employee |

| EXPEDITED PENALTIES | | | |
|---|--|--------|-------------------------|
| AIR QUALITY—CHEMICAL ACCIDENT PREVENTION | | | |
| Violation | Citation | Amount | Frequency |
| Failure to prepare and implement procedures to maintain the ongoing mechanical integrity of the process equipment and/or perform or cause to be performed inspections and tests on process equipment. | LAC 33:III.5901.A, as described by 40 CFR 68.56(a and d) (Program 2) | \$1500 | Per occurrence |
| Failure to document completion of a process hazard analysis action item. | LAC 33:III.5901.A, as described by 40 CFR 68.67(c) (Program 3) | \$250 | Per occurrence |
| Failure to ensure current and newly assigned employees have received initial and refresher training (five or fewer employees). | LAC 33:III.5901.A, as described by 40 CFR 68.71(a and b) (Program 3) | \$750 | Per occurrence/employee |
| Failure to document each inspection and test performed on process equipment. | LAC 33:III.5901.A, as described by 40 CFR 68.73(d)(4) (Program 3) | \$250 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--|---|---------|----------------|
| HAZARDOUS WASTE | | | |
| Violation | Citation | Amount | Frequency |
| Unpermitted/Unauthorized storage of on-site generated hazardous waste for a period greater than the allowable time frame and this storage did not result in, or significantly increase the risk of, a release of or exposure to hazardous waste. | LAC 33:V.303.B | \$1,000 | Per occurrence |
| Failure by a generator of a solid waste (as defined in LAC 33:V.1109) to determine if solid waste is a hazardous waste and this failure did not result in, or significantly increase the risk of a release or exposure to hazardous waste. | LAC 33:V.1103 | \$1,000 | Per occurrence |
| Failure by a generator to notify the Office of Environmental Services within seven days of changes to the information submitted in its application for an EPA identification number. | LAC 33:V.1105.B | \$250 | Per inspection |
| Failure to keep a container containing non-volatile hazardous waste closed, except when necessary to add or remove waste (five or fewer containers). | LAC 33:V.1109.E.1.a.i; LAC 33:V.1109.E.4; LAC 33:V.1109.E.7.a | \$250 | Per occurrence |
| Failure to conduct weekly inspections of hazardous waste containers. | LAC 33:V.1109.E.1.a.i | \$500 | Per occurrence |
| Failure to mark a container of hazardous waste with an accumulation start date (five or fewer containers). | LAC 33:V.1109.E.1.c; LAC 33:V.1109.E.7.c | \$250 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|---|---|--------|----------------|
| HAZARDOUS WASTE | | | |
| Violation | Citation | Amount | Frequency |
| Failure to clearly label or mark a container and/or tank storing hazardous waste with the words "Hazardous Waste" or other words identifying the contents of the container (five or fewer containers). | LAC 33:V.1109.E.1.d; LAC 33:V.1109.E.4; LAC 33:V.1109.E.7.c | \$250 | Per occurrence |
| Failure by a hazardous waste generator to submit a timely, accurate, and/or complete hazardous waste annual report. | LAC 33:V.1111.B | \$500 | Per occurrence |
| Failure to label or mark each universal waste or a container storing universal waste in accordance with LAC 33:V.3823 and/or LAC 33:V.3845 (five or fewer containers). | LAC 33:V.3823; LAC 33:V.3845 | \$250 | Per occurrence |
| Failure by a used oil handler to label or mark containers or aboveground tanks storing used oil or fill pipes to transfer used oil into underground storage tanks with the words "Used Oil" (five or fewer containers). | LAC 33:V.4013.D; LAC 33:V.4035.G; LAC 33:V.4049.F; LAC 33:V.4069.F | \$250 | Per occurrence |
| Failure by a used oil handler to stop, contain, cleanup, and/or manage a release of used oil, and/or repair or replace a leaking used oil container or tank prior to returning it to service. | LAC 33:V.4013.E; LAC 33:V.4035.H; LAC 33:V.4049.G; LAC 33:V.4069.G | \$750 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--------------------------|----------|--------|-----------|
| HAZARDOUS WASTE—Used Oil | | | |
| Violation | Citation | Amount | Frequency |
| Repealed. | | | |

| EXPEDITED PENALTIES | | | |
|---|------------------|---------|----------------|
| SOLID WASTE | | | |
| Violation | Citation | Amount | Frequency |
| Unauthorized on-site processing and/or disposal of regulated solid waste generated at the site by an individual who owns, leases, or has an actual right, title, or interest in the property. | LAC 33:VII.315.C | \$500 | Per occurrence |
| Unauthorized processing and/or disposal of solid waste which was generated at an off-site location. | LAC 33:VII.315.C | \$1,500 | Per occurrence |
| Unauthorized on-site processing and/or disposal of regulated solid waste at a site by a business or other entity having an actual right, title, or interest in the property. | LAC 33:VII.315.C | \$1,500 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|---|------------------|---------|----------------|
| SOLID WASTE | | | |
| Violation | Citation | Amount | Frequency |
| Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land. | LAC 33:VII.315.F | \$500 | Per occurrence |
| An individual engaged in open burning of solid waste as prohibited by regulation. | LAC 33:VII.315.M | \$300 | Per occurrence |
| A business engaged in open burning of solid waste as prohibited by regulation. | LAC 33:VII.315.M | \$1,500 | Per occurrence |
| Offering residential solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste. | LAC 33:VII.315.O | \$500 | Per occurrence |
| Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste. | LAC 33:VII.315.O | \$1,000 | Per occurrence |
| Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste. | LAC 33:VII.315.O | \$1,500 | Per occurrence |
| *** | | | |
| Transportation of solid waste to a processing or disposal facility not permitted to receive such waste. | LAC 33:VII.505.D | \$1,500 | Per occurrence |
| Failure by a permitted solid waste facility to submit a timely and/or accurate Certification of Compliance (submittal no more than 180 days past due). | LAC 33:VII.525.A | \$500 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|---|-----------------------------------|--------|----------------|
| SOLID WASTE—Waste Tires | | | |
| Violation | Citation | Amount | Frequency |
| Storage of more than 20 whole waste tires without authorization from the administrative authority. | LAC 33:VII.10509.B | \$200 | Per occurrence |
| Transporting more than 20 waste tires without first obtaining a transporter authorization certificate. | LAC 33:VII.10509.C | \$300 | Per occurrence |
| Storing waste tires for more than 365 days. | LAC 33:VII.10509.E | \$200 | Per occurrence |
| Failure to maintain all required records for three years on-site or at an alternative site approved in writing by the administrative authority. | LAC 33:VII.10509.G; 10519.O and P | \$200 | Per occurrence |
| Failure to obtain a waste tire generator identification number within 30 days of commencing business operations. | LAC 33:VII.10519.A | \$300 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--|--|--------|---|
| SOLID WASTE—Waste Tires | | | |
| Violation | Citation | Amount | Frequency |
| Failure to accept one waste tire for every new tire sold unless the purchaser chooses to keep the waste tire. | LAC 33:VII.10519.B | \$100 | Per occurrence |
| Failure to collect appropriate waste tire fee for each tire sold. | LAC 33:VII.10519.C; 10521.B; 10535.B | \$200 | Per occurrence |
| Failure to submit monthly waste tire fee reports to the state on a monthly basis, as specified in the regulations. | LAC 33:VII.10519.D; 10521.C | \$250 | Six or fewer months in violation |
| Failure to submit monthly waste tire fee reports to the state on a monthly basis, as specified in the regulations. | LAC 33:VII.10519.D; 10521.C | \$500 | More than six months and up to 12 months in violation |
| Failure to keep and preserve records necessary to verify the amount of the waste tire fees for a minimum of three years. | LAC 33:VII.10519.D; LAC 33:VII.10519.P; LAC 33:VII.10521.C | \$200 | Per inspection |
| Failure to post required notifications to the public. | LAC 33:VII.10519.E; 10521.D | \$100 | Per occurrence |
| Failure to list the waste tire fee on a separate line on the invoice so that no tax will be charged on the fee. | LAC 33:VII.10519.F; 10521.E | \$100 | Per occurrence |
| Failure to keep waste tires or waste tire material covered as specified. | LAC 33:VII.10519.H; 10521.H | \$200 | Per occurrence |
| Storing waste tires for more than 120 days without complying with the exceptions for the extended storage time. | LAC 33:VII.10519.I | \$200 | Per occurrence |
| Failure to comply with the manifest requirements specified in LAC 33:VII.10533. | LAC 33:VII.10519.G; 10521.G | \$200 | Per occurrence |
| Failure to use an authorized transporter for removal of waste tires from a place of business. | LAC 33:VII.10519.K | \$500 | Per occurrence |
| Failure to segregate waste tires from new or used tires offered for sale. | LAC 33:VII.10519.M | \$200 | Per occurrence |
| Failure of a motor vehicle dealer to notify the administrative authority within 30 days of commencing business operations. | LAC 33:VII.10521.A | \$300 | Per occurrence |
| Failure to submit application and fees for transporter authorization. | LAC 33:VII.10523.A | \$300 | Per occurrence |
| Failure to use a waste tire manifest when transporting greater than 20 waste tires. | LAC 33:VII.10523.C | \$200 | Per occurrence |
| Failure to use a manifest when transporting greater than 20 waste tires. | LAC 33:VII.10523.C | \$200 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--|-----------------------------|---------|----------------|
| SOLID WASTE—Waste Tires | | | |
| Violation | Citation | Amount | Frequency |
| Failure of transporter to transport all waste tires to an authorized collection center or a permitted processing facility. | LAC 33:VII.10523.D | \$1,000 | Per occurrence |
| Failure of out-of-state or out-of-country transporter to comply with state waste tire regulations. | LAC 33:VII.10523.E | \$200 | Per occurrence |
| Failure to affix to driver's door and passenger's door the authorization certificate number, 3 inches in height. | LAC 33:VII.10523.F | \$100 | Per occurrence |
| Failure to provide notification in writing within 10 days when any information on the authorization certificate form changes, or if the business closes and ceases transporting waste tires. | LAC 33:VII.10523.G | \$100 | Per occurrence |
| Acceptance by a processor of more than five unmanifested waste tires per day per customer. | LAC 33:VII.10525.A.2 | \$300 | Per occurrence |
| Failure of a processor to maintain a log for all unmanifested loads. | LAC 33:VII.10525.A.2 | \$200 | Per occurrence |
| Failure to meet any of the facility standards listed in LAC 33:VII.10525.D. | LAC 33:VII.10525.D | \$300 | Per occurrence |
| Failure by a collector or collection center to follow the requirements for receipt of waste tires. | LAC 33:VII.10527.A | \$200 | Per occurrence |
| Failure of collection center operator to meet the standards in LAC 33:VII.10525.D.1-10 and 12-24. | LAC 33:VII.10527.B | \$300 | Per occurrence |
| A collector or collection center exceeding the storage limit of waste tires or waste tire material. | LAC 33:VII.10527.C; 10531.C | \$300 | Per occurrence |
| Failure of recycler to provide notification of its existence and obtain an identification number. | LAC 33:VII.10531.A | \$300 | Per occurrence |
| Failure of a waste tire or waste tire material recycler to meet the requirements of LAC 33:VII.10525.D. | LAC 33:VII.10531.B | \$300 | Per occurrence |
| Failure to provide a manifest for all waste tire shipments containing more than 20 tires. | LAC 33:VII.10533.A | \$200 | Per occurrence |
| Failure to follow the requirements for manifest discrepancies. | LAC 33:VII.10533.C | \$300 | Per occurrence |
| Failure to maintain completed manifests for three years and have them available for inspection. | LAC 33:VII.10533.D | \$200 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|---|--------------------|---------------------|----------------|
| WATER QUALITY—Storm Water General Permit Series (LAR040000, LAR050000, LAR100000, and LAR200000) | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Failure to submit a Notice of Intent for coverage under LPDES Storm Water General Permit LAR050000 or LAR100000. | LAC 33:IX.2511.C.1 | \$1,000 | Per occurrence |
| Failure to comply with effluent limitations and/or monitoring requirements from a facility eligible for coverage under an LPDES permit within the Storm Water General Series. | LAC 33:IX.2701.A | \$300 | Per occurrence |
| Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP) as required by LPDES General Permit LAR200000. | LAC 33:IX.2701.A | \$300 | Per occurrence |

¹ For each applicable violation that potentially contributes to impairment of a water body, an additional \$500 penalty amount shall be added to the penalty amount specified with the violation.

| EXPEDITED PENALTIES | | | |
|---|------------------|---------------------|---|
| WATER QUALITY—Sanitary General Permit Series LAG530000, LAG540000, LAG560000, LAG570000, and LAG750000 | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Unauthorized discharge of pollutants to waters of the state that does not cause an emergency condition and is from a facility eligible for coverage under LPDES General Permit LAG53000, LAG540000, or LAG750000. | LAC 33:IX.501.D | \$500 | Per occurrence |
| Failure to comply with effluent limitations and/or monitoring requirements of LPDES General Permit LAG530000. | LAC 33:IX.2701.A | \$250 | 10 or fewer violations |
| Failure to comply with effluent limitations and/or monitoring requirements of LPDES General Permit LAG530000. | LAC 33:IX.2701.A | \$500 | More than 10, but less than 20 violations |
| Failure to comply with effluent limitations and/or monitoring requirements of LPDES General Permit LAG540000 or LAG750000. | LAC 33:IX.2701.A | \$300 | 10 or fewer violations |
| Failure to comply with effluent limitations and/or monitoring requirements of LPDES General Permit LAG540000 or LAG750000. | LAC 33:IX.2701.A | \$600 | More than 10, but less than 20 violations |
| Failure to properly operate and maintain all facilities and systems of treatment and control including sanitary sewer overflows. | LAC 33:IX.2701.E | \$250 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--|------------------|---------------------|---|
| WATER QUALITY—Sanitary General Permit Series LAG530000, LAG540000, LAG560000, LAG570000, and LAG750000 | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Failure to properly operate and maintain all facilities and systems of treatment and control. | LAC 33:IX.2701.E | \$100 | Per occurrence |
| Unauthorized discharge of pollutants to waters of the state that do not cause an emergency condition and is from a facility eligible for coverage under LPDES General Permit LAG560000 or LAG570000. | LAC 33:IX.501.D | \$750 | Per occurrence |
| Failure to comply with effluent limitations and/or monitoring requirement of an LPDES General Permit LAG560000 or LAG570000. | LAC 33:IX.2701.A | \$500 | 10 or fewer violations |
| Failure to comply with effluent limitations and/or monitoring requirement of an LPDES General Permit LAG560000 or LAG570000. | LAC 33:IX.2701.A | \$1,000 | More than 10, but less than 20 violations |

¹ For each applicable violation that potentially contributes to impairment of a water body, an additional \$500 penalty amount shall be added to the penalty amount specified with the violation.

| EXPEDITED PENALTIES | | | |
|--|------------------|---------------------|---|
| WATER QUALITY—Oil and Gas General Permit Series LAG260000, LAG300000, LAG330000, or LAG830000 | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Unauthorized discharge of pollutants to waters of the state that does not cause an emergency condition and is from a facility eligible for coverage under an LPDES permit within the Oil and Gas General Series. | LAC 33:IX.501.D | \$1,000 | Per occurrence |
| Failure to comply with effluent limitations and/or monitoring requirements from a facility covered under an LPDES permit within the Oil and Gas General Series. | LAC 33:IX.2701.A | \$500 | 10 or fewer violations |
| Failure to comply with effluent limitations and/or monitoring requirements from a facility covered under an LPDES permit within the Oil and Gas General Series. | LAC 33:IX.2701.A | \$1,000 | More than 10, but less than 20 violations |

¹ For each applicable violation that potentially contributes to impairment of a water body, an additional \$500 penalty amount shall be added to the penalty amount specified with the violation.

| EXPEDITED PENALTIES | | | |
|--|------------------|---------------------|---|
| WATER QUALITY—Industrial/Commercial General Permit Series LAG110000, LAG380000, LAG420000, LAG470000, LAG480000, LAG490000, LAG670000, and LAG780000 | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Unauthorized discharge of pollutants to waters of the state that does not cause an emergency condition and is from a facility eligible for coverage under an LPDES permit within the Industrial/Commercial General Series. | LAC 33:IX.501.D | \$800 | Per occurrence |
| Failure to comply with effluent limitations and/or monitoring requirements from a facility covered under an LPDES permit within the Industrial/Commercial General Series. | LAC 33:IX.2701.A | \$500 | 10 or fewer violations |
| Failure to comply with effluent limitations and/or monitoring requirements from a facility covered under an LPDES permit within the Industrial/Commercial General Series. | LAC 33:IX.2701.A | \$1,000 | More than 10, but less than 20 violations |

¹ For each applicable violation that potentially contributes to impairment of a water body, an additional \$500 penalty amount shall be added to the penalty amount specified with the violation.

| EXPEDITED PENALTIES | | | |
|--|------------------|---------------------|---|
| WATER QUALITY—Other Permits | | | |
| Violation ² | Citation | Amount ¹ | Frequency |
| Failure to comply with effluent limitations and/or monitoring requirements from a facility covered under an LPDES permit, which is not defined as a Major Facility or covered under a General Permit as defined in LAC 33:IX.2313. | LAC 33:IX.2701.A | \$500 | 10 or fewer violations |
| Failure to comply with effluent limitations and/or monitoring requirements from a facility covered under an LPDES permit, which is not defined as a Major Facility or covered under a General Permit as defined in LAC 33:IX.2313. | LAC 33:IX.2701.A | \$1,000 | More than 10, but less than 20 violations |

¹ For each applicable violation that potentially contributes to impairment of a water body, an additional \$500 penalty amount shall be added to the penalty amount specified above.

² For municipal sanitary treatment plants eligible for or covered under an LPDES permit within the Minor series, application of expedited penalty related LPDES General Permit LAG560000 or LAG570000 violations may be used as approved by the administrative authority.

| EXPEDITED PENALTIES | | | |
|---------------------|----------|---------------------|-----------|
| WATER QUALITY | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Repealed. | | | |

| EXPEDITED PENALTIES | | | |
|---|---|---------------------|------------------------|
| WATER QUALITY—Nonspecific | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Failure to develop a Spill Prevention and Control (SPC) plan for any applicable facility. | LAC 33:IX.708.C.1; LAC 33:IX.905 | \$1,000 | Per occurrence |
| Failure to implement any component of an SPC plan which does not result in a release of pollutants to waters of the state. | LAC 33:IX.708.C.1; LAC 33:IX.905 | \$500 | Per occurrence |
| Failure to implement any component of an SPC plan which results in a release of pollutants to waters of the state. | LAC 33:IX.708.C.1; LAC 33:IX.905 | \$1,000 | Per occurrence |
| Unauthorized discharge of oily fluids, oil field wastes, and/or produced water. | LAC 33:IX.708.C.2; LAC 33:IX.1701.B; LAC 33:IX.1901.A | \$1,000 | Per occurrence |
| Failure to submit an initial application or Notice of Intent for authorization under an LPDES permit. | LAC 33:IX.2501.A | \$500 | Per required submittal |
| Failure to reapply for authorization under an LPDES permit in a timely manner prior to the expiration date of the current permit. | LAC 33:IX.2501.A | \$250 | Per required submittal |
| Failure to reapply for authorization under an LPDES permit at a Major Facility, as defined in LAC 33:IX.2313, in a timely manner prior to the expiration date of the current permit. | LAC 33:IX.2501.A | \$500 | Per required submittal |
| Failure to submit certain reports as required by any LPDES permit, including, but not limited to, noncompliance reports, storm water reports, pretreatment reports, biomonitoring reports, overflow reports, construction schedule progress reports, environmental audit reports as required by a municipal pollution prevention plan, and toxicity reduction evaluation reports. | LAC 33:IX.2701.A | \$300 | Per required submittal |
| Failure to prepare and/or implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP), a Pollution Prevention Plan (PPP), or a Best Management Practices (BMP) Plan as required by any LPDES permit not specified elsewhere in this Chapter. | LAC 33:IX.2701.A | \$1,000 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|--|------------------------------|---------------------|----------------|
| WATER QUALITY—Nonspecific | | | |
| Violation | Citation | Amount ¹ | Frequency |
| Failure to comply with any portion(s) of Sewage Sludge and Biosolids Use, or Disposal Permit LAJ650000. | LAC 33:IX.7301.D.1 | \$400 | Per occurrence |
| Failure to comply with registration requirements and standards for transporters of sewage sludge and/or standards for vehicles used in the transport of sewage sludge. | LAC 33:IX.7301.F | \$400 | Per occurrence |
| Unauthorized use or disposal of sewage sludge or biosolids. | LAC 33:IX.7301.G.1 or G.2 | \$1,000 | Per occurrence |

¹ For each applicable violation that potentially contributes to impairment of a water body, an additional \$500 penalty amount shall be added to the penalty amount specified with the violation.

| EXPEDITED PENALTIES | | | |
|--|-------------------------|---------|----------------|
| UNDERGROUND STORAGE TANKS | | | |
| Violation | Citation | Amount | Frequency |
| Failure to register an existing or new UST containing a regulated substance. | LAC 33:XI.301.A-B | \$300 | Per inspection |
| Failure to certify and provide required information on the department's approved registration form. | LAC 33:XI.301.B. 1-2 | \$200 | Per inspection |
| Failure to provide notification within 30 days after selling a UST system or acquiring a UST system; failure to keep a current copy of the registration form on-site or at the nearest staffed facility. | LAC 33:XI.301.C. 1-3 | \$300 | Per inspection |
| Allowing a regulated substance to be placed into a new UST system that has not been registered. | LAC 33:XI.301.C.4 | \$1,500 | Per inspection |
| Failure to provide corrosion protection to tanks that routinely contain regulated substances using one of the specified methods. | LAC 33:XI.303.D.1 | \$500 | Per inspection |
| Failure to provide corrosion protection to piping that routinely contains regulated substances using one of the specified methods. | LAC 33:XI.303.D.2 | \$500 | Per inspection |
| Failure to provide corrosion protection to flex hoses and/or sub-pumps that routinely contain regulated substances using one of the specified methods. | LAC 33:XI.303.D.2 | \$500 | Per inspection |
| Failure to provide spill and/or overflow prevention equipment as specified. | LAC 33:XI.303.D.3 | \$300 | Per inspection |

| EXPEDITED PENALTIES | | | |
|---|------------------------|---------|----------------|
| UNDERGROUND STORAGE TANKS | | | |
| Violation | Citation | Amount | Frequency |
| Failure to ensure that the individual exercising supervisory control over installation-critical junctures is certified in accordance with LAC 33:XI.Chapter 13. | LAC 33:XI.303.D.6.b.ii | \$1,500 | Per occurrence |
| Failure to upgrade an existing UST system to new system standards as specified. | LAC 33:XI.303.E | \$1,300 | Per inspection |
| Failure to pay fees by the required date. | LAC 33:XI.307.D | \$200 | Per inspection |
| Failure to report any spill and/or overflow. | LAC 33:XI.501.C | \$500 | Per inspection |
| Failure to investigate and/or clean up any spill and/or overflow. | LAC 33:XI.501.C | \$1,500 | Per inspection |
| Failure to continuously operate and maintain corrosion protection to the metal components of portions of the tank and piping that routinely contain regulated substances and are in contact with the ground or water. | LAC 33:XI.503.A.1 | \$300 | Per inspection |
| Failure to have a UST system equipped with a cathodic protection system inspected for proper operation as specified. | LAC 33:XI.503.A.2 | \$300 | Per inspection |
| Failure to inspect a UST system with an impressed current cathodic protection system every 60 days to ensure that the equipment is running properly. | LAC 33:XI.503.A.3 | \$300 | Per inspection |
| Failure to meet requirements for repairs to UST systems. | LAC 33:XI.507 | \$300 | Per inspection |
| Failure to ensure that the individual exercising supervisory control over repair-critical junctures is certified. | LAC 33:XI.507.A.2 | \$1,000 | Per occurrence |
| Failure to maintain required information and/or keep records at the UST site and make them immediately available or keep them at an alternative site and provide them after a request. | LAC 33:XI.509.B and C | \$200 | Per inspection |
| Failure of Class A, B, or C UST operators to be trained and certified in accordance with the regulations and deadlines in LAC 33:XI.607. | LAC 33:XI.603.A.2 | \$500 | Per occurrence |
| Failure of Class A or B UST operators to be retrained in accordance with LAC 33:XI.603 and 605 within three years of initial training. | LAC 33:XI.609.A | \$500 | Per occurrence |

| EXPEDITED PENALTIES | | | |
|---|--------------------------------|---------|----------------|
| UNDERGROUND STORAGE TANKS | | | |
| Violation | Citation | Amount | Frequency |
| Failure of a Class C operator to be re-trained after beginning work at a UST facility owned by an operator that did not provide the Class C operators initial training. | LAC 33:XI.609.B | \$300 | Per occurrence |
| Failure to meet the performance requirements when performing release detection required in LAC 33:XI.703. | LAC 33:XI.701; 703.A.2.b and c | \$750 | Per inspection |
| Failure to conduct an annual performance test on automatic line leak detectors by simulating a leak. | LAC 33:XI.701.B.1 | \$350 | Per inspection |
| Failure to use a method or combination of methods of release detection described in LAC 33:XI.701 for all new or existing tank systems. | LAC 33:XI.703.A.1 | \$1,500 | Per inspection |
| Failure to monitor tanks for releases as specified. | LAC 33:XI.703.B.1 | \$350 | Per inspection |
| Failure to monitor underground piping for releases as specified. | LAC 33:XI.703.B.2 | \$750 | Per inspection |
| Failure to report any suspected release within 24 hours after becoming aware of the occurrence or when a leak detection method indicates that a release may have occurred. | LAC 33:XI.703.A.3 or 707 | \$500 | Per occurrence |
| Failure to investigate and confirm any suspected release of a regulated substance requiring reporting under LAC 33:XI.707 within seven days of detection. | LAC 33:XI.711 | \$1,500 | Per occurrence |
| Failure to maintain corrosion protection and/or release detection on a UST system that is temporarily closed and contains more than 2.5 cm (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system. | LAC 33:XI.903.A | \$500 | Per inspection |
| Failure to permanently close tanks that do not meet the required performance standards. | LAC 33:XI.903.C | \$1,000 | Per inspection |
| Failure to perform and/or submit a site assessment within 24 months of the date tanks are placed into temporary closure. | LAC 33:XI.903.D | \$500 | Per inspection |
| Failure to comply with permanent closure and/or changes in service procedures. | LAC 33:XI.905 | \$500 | Per inspection |
| Failure to use a certified worker for tank closure. | LAC 33:XI.905.A.2 | \$1,000 | Per inspection |

| EXPEDITED PENALTIES | | | |
|--|------------------|---------|----------------|
| UNDERGROUND STORAGE TANKS | | | |
| Violation | Citation | Amount | Frequency |
| Failure to assess the site at closure or change-in-service where contamination is most likely to be present. | LAC 33:XI.907.A | \$500 | Per occurrence |
| Failure to submit the assessment in duplicate within 60 days following permanent closure or change-in-service. | LAC 33:XI.907.A | \$500 | Per occurrence |
| Failure to begin corrective action of contaminated soils, contaminated groundwater, or free product discovered through methods in LAC 33:XI.907.A, in accordance with LAC 33:XI.715. | LAC 33:XI.907.B | \$1,500 | Per occurrence |
| No person shall conduct critical junctures of a UST system unless the person present at the site and exercising responsible supervisory control over the critical juncture is currently certified in accordance with LAC 33:XI.Chapter 13. | LAC 33:XI.1301.B | \$1,500 | Per inspection |

| EXPEDITED PENALTIES | | | |
|---|-----------------------|--------|----------------|
| RADIATION | | | |
| Violation | Citation | Amount | Frequency |
| Failure to submit a timely and complete license renewal application 30 days prior to expiration of existing license. | LAC 33:XV.332.C | \$250 | Per occurrence |
| Failure to provide adequate or accurate information on notification of reciprocity. | LAC 33:XV.390.A.2 | \$250 | Per occurrence |
| Failure to secure licensed or registered radioactive material from unauthorized removal or access. | LAC 33:XV.445.A | \$500 | Per occurrence |
| Failure to post each radiation area with conspicuous signage. | LAC 33:XV.451 | \$300 | Per occurrence |
| Failure of licensed transferor to verify that the transferee is licensed to receive the radioactive materials. | LAC 33:XV.340.C | \$1000 | Per occurrence |
| Failure to perform required surveys or monitoring with properly calibrated instruments. | LAC 33:XV.430 | \$500 | Per inspection |
| Failure to perform periodic measurement of entrance exposure rates at installation, annually thereafter, or after any maintenance of the x-ray fluoroscopic system. | LAC 33:XV.605.A.3.b.i | \$1000 | Per occurrence |

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended LR 34:1393 (July 2008), LR 35:62 (January 2009), amended by the Office of the Secretary, Legal Division, LR 42:236 (February 2016).

Herman Robinson, CPM
General Counsel

1602#020

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Division**

Waste Tires (LAC 33:VII.Chapters 105 and 111)(SW062)

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 Solid Waste regulations, LAC 33:VII. 10501, 10503, 10505, 10507, 10509, 10511, 10513, 10514, 10515, 10516, 10517, 10518, 10519, 10521, 10523, 10524, 10525, 10527, 10529, 10531, 10532, 10533, 10534, 10535, 10536, 10537, 10539, 10541, 10543, 11101, and 11103 (SW062).

This Rule provides regulations for the administration and enforcement of the waste tire program, including the waste tire management fund. R.S. 30:2418(H) requires the secretary of the Department of Environmental Quality to promulgate rules, regulations, and guidelines for the administration and enforcement of the waste tire program. Section 3 of Act 427 of the 2015 Regular Legislative Session, requires the secretary to bring any Rule, regulation or guideline required by R.S. 30:2418(H) in conformity with current law by March 31, 2016. The basis and rationale for this Rule are to comply with the legislative mandate set forth in section 3 of Act 427 of the 2015 Regular Legislative Session. 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 VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10505. Definitions

A. The following words, terms, and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Abandoned—waste tires and/or waste tire material discarded without adhering to the proper disposal or processing standards required by these regulations.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

Adjustment Tire—a tire that becomes unusable for any reason within the manufacturer's control and is returned to the dealer under a tire manufacturer's warranty. Tire adjustments are initiated by the consumer.

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Agreement—a written contract or other written arrangement between recipient persons and the administrative authority that outlines specific goals or responsibilities.

Applicant—any person submitting a grant and/or loan application for funds from the waste tire management fund or any person who submits an application to the administrative authority for a standard waste tire processing or collection center permit. An applicant can also be any person applying for authority to operate a high volume end use facility, authority to utilize waste tires and/or waste tire material in an end-market use project, or authority to conduct a single event cleanup.

Authorization Certificate—written authorization issued by the administrative authority.

Civil Engineering Project—generally a project that requires designs and/or calculations for the construction or maintenance of the physical environment, such as roads, bridges, canals, dams, and buildings. For purposes of these regulations, civil engineering projects, include but are not limited to, light weight backfill, leachate collection systems in landfill cell construction, or erosion control. Waste tire material used in civil engineering projects shall provide comparable or improved performance to traditional materials. Civil engineering projects do not include land reclamation.

Clean Closure—the act of closing a facility whereby all waste tires and waste tire material are removed.

Collection Center—a permitted or authorized facility where waste tires can be stored and/or collected.

Collector—a person who operates a collection center.

Customary End-Market Uses—projects that conform with generally accepted standard industry practices, including but not limited to, those recognized by the Environmental Protection Agency, the Rubber Manufacturers Association, or previously approved by the administrative authority e.g., bulkheads, tire derived fuel, and crumb rubber applications, or as otherwise determined by the administrative authority.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

Destination Facility—a facility where waste tires and/or waste tire material is processed, recycled, collected, stored and/or disposed after transportation.

Disease Vector—animals and insects such as rodents, fleas, flies, mosquitoes, etc. that are capable of transmitting diseases to humans.

Disease Vector Control Plan—a plan approved by the administrative authority to control the growth and spread of disease vectors.

Disposal—the depositing, dumping, or placing of waste tires or waste tire material on or into any land or water so that such waste tires, waste tire material, or any constituent thereof, may have the potential for entering the environment, or being emitted into the air, or discharged into any waters of the state of Louisiana.

Eligible Tire—see *program eligible waste tires*.

End-Market Use Project—the utilization of whole waste tires and/or waste tire material in a manner approved by the administrative authority.

End-Market User—any person who uses whole waste tires and/or waste tire material in an end-market use project as approved by the administrative authority. For the purposes of international and out-of-state end-market use projects, end-market user includes a port at which waste tires and/or waste tire material is loaded for transportation by water destined for out-of-state markets.

Extended Storage—any project which requires storage of more than 5,000 whole waste tires or 2,000,000 pounds of waste tire material at the end of any operational day.

Facility—any land and appurtenances thereto used for collection, storage, processing, or recycling of whole waste tires and/or waste tire material.

Fraudulent Taking—Repealed.

Generator—a person whose activities, whether authorized or unauthorized, result in the production of waste tires. This may include, but is not limited to, tire dealers, salvage yards, etc.

Government Agencies—local, parish, state, municipal, and federal governing authorities having jurisdiction over a defined geographic area.

Government Tire Sweep—a waste tire collection event authorized by the administrative authority to allow government agencies to collect waste tires for transport to a permitted waste tire processing facility.

Grant—any funds awarded by the administrative authority from the waste tire management fund to a person subject to a grant agreement.

Grant Agreement—a written contract or other written agreement between the administrative authority and the recipient of a grant that defines the conditions, goals, and responsibilities of the recipient and the administrative authority.

Grant Application—an application meeting the requirements of LAC 33:VII.10541 from a person making a request for a grant from the waste tire management fund.

Grantee—the recipient of a grant or loan.

High Volume End Use Facility—a facility at which whole waste tires and/or waste tire material is utilized for projects that require extended storage and have been approved by the administrative authority. This definition also includes ports where extended storage is necessary to facilitate transportation on water to out-of-state and/or international approved end market use projects.

Ineligible Tire—see *program ineligible waste tire*.

Land Reclamation Project—a project utilizing waste tire material to fill, rehabilitate, improve, or restore existing excavated, deteriorated, or disturbed land for the purpose of enhancing its potential use.

Limiting Piece of Equipment—that piece of processing equipment that has the lowest daily throughput of waste tires and/or waste tire material, typically the primary shredder, unless a different piece of equipment is otherwise approved by the administrative authority.

Loan—any issuance of funds by the administrative authority from the waste tire management fund to a person subject to a loan agreement.

Loan Agreement—a written contract or other written agreement between the administrative authority and the recipient of a loan that defines the conditions, goals, and responsibilities of the recipient and the administrative authority.

Loan Application—an application meeting the requirements of LAC 33:VII.10541 from a person making a request for a loan from the waste tire management fund.

Major Highway—Repealed.

Manifest—the mechanism provided by the administrative authority, used for identifying the quantity, type, origin, transportation, and destination of waste tires and/or waste tire material from the point of generation to the authorized destination.

Marketing—the selling and/or transferring of waste tires or waste tire material for recycling in end-market use projects.

Medium Truck Tire—a tire weighing 100 pounds or more and normally used on semi-trailers, truck-tractor, semi-trailer combinations or other like vehicles used primarily to commercially transport persons or property on the roads of this state or any other vehicle regularly used on the roads of this state.

Mobile Processor—a standard permitted processor who has processing equipment capable of being moved from one authorized location to another.

Modification—any change in a site, facility, unit, process, or operation that deviates from any specification in the permit or other approval from the administrative authority. Routine or emergency maintenance that does not cause the facility to deviate from any specification of the permit or other approval is not considered a modification.

Motor Vehicle—an automobile, motorcycle that is operated either on-road or off-road, truck, trailer, semi-trailer, truck-tractor and semi-trailer combination, or any other vehicle operated in this state, and propelled by power other than muscular power. This term does not include bicycles and mopeds.

Motor Vehicle Dealer—any person that sells or leases new vehicles that are required to be registered in or are intended for use in the state of Louisiana.

Mounting Services—the removal and replacement of an unserviceable tire with a serviceable tire purchased at another location and for which the appropriate Louisiana waste tire fee has been collected.

Off-Road Tire—a tire weighing 100 pounds or more and that is normally used on off-road vehicles.

Off-Road Vehicle—a vehicle used for construction, farming, industrial uses, or mining, not normally operated on the roads of the state. This term does not include vehicles propelled solely by muscular power.

Passenger/Light Truck/Small Farm Service Tire—a tire weighing less than 100 pounds and normally used on automobiles, motorcycles that are operated either on-road or off-road, pickup trucks, sport utility vehicles, front steer tractors, and farm implement service vehicles.

Permittee/Permit Holder—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations.

Person—an individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission,

political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

Premises—a unit of land or any portion thereof.

Principal Executive Officer—the chief executive officer of a state or federal agency, or a senior executive officer having responsibility for the overall operations of a principal geographic or functional unit of a state or federal agency (e.g., regional administrators of EPA).

Processing—any method or activity that alters whole waste tires so that they are no longer whole; such as, cutting, slicing, chipping, shredding, distilling, freezing, or other processes as determined by the administrative authority. At a minimum, a tire is considered processed only if its volume has been reduced by more than half.

Processor—a person that processes waste tires.

Processor Agreement—a written contract between a permitted processor and the administrative authority that outlines specific requirements and responsibilities and is required for payment to the processor from the waste tire management fund.

Program Eligible Waste Tires—those waste tires generated within Louisiana for which a processor will be reimbursed by the waste tire management fund. These tires may include, but are not limited to: passenger/light truck/small farm service tires, medium truck tires, off-road tires, golf cart tires, lawn mower tires, and bicycle tires. These tires are only program eligible if they are:

- a. originating from an authorized tire dealer upon the replacement of an unserviceable tire with a serviceable tire including tires documented from mounting services;
- b. collected during an authorized government tire sweep or authorized site cleanup, except those waste tires defined as program ineligible waste tires;
- c. collected by an authorized government collection center, except those waste tires defined as program ineligible waste tires;
- d. collected by a permitted collection center, except those waste tires defined as program ineligible waste tires;
- e. removed from a Louisiana titled vehicle at a qualified scrap or salvage yard;
- f. collected at a permitted processing facility in accordance with LAC 33:VII.10525.B.2, except those waste tires defined as program ineligible waste tires; or
- g. otherwise determined by the administrative authority on a case-by-case basis.

Program Ineligible Waste Tire—a waste tire for which a processor will not be reimbursed from the waste tire management fund. This includes, but is not limited to, tires weighing 500 pounds or more at the time of sale, solid tires, tires purchased from a tire wholesaler for use on fleet vehicles and/or used vehicles for which a fee has not been paid, out-of-state tires, marine bumper tires, purchased used tires that are not suitable for re-sale, tires accepted by retail outlets for which a fee has not been collected, and any other tire not defined as a program eligible waste tire.

Qualified Recycler—Repealed.

Qualified Scrap or Salvage Yard—any facility that is licensed pursuant to R.S. 32:784.

Recall Tire—a tire that is specified as defective by the manufacturer and returned to the dealer by the consumer so

that the dealer may provide a replacement or repair. Recalls are initiated by the manufacturer or the federal government.

Recapped or Retreaded Tire—any tire that has been reconditioned from a used tire and sold for use on a motor vehicle.

Recovered Material—materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the solid waste stream for sale, use, or reuse by separation, collection, or processing.

Recycling—any process by which waste tires, waste tire material, or residuals are used or reused in an end-market use project.

Responsible Corporate Officer—one of the following persons employed by the corporation: president; treasurer; secretary; vice-president in charge of a principal business function; or any other person who performs similar policy or decision-making functions of the corporation; or the manager of one or more manufacturing, production, or operating facilities, provided that the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations, and can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit applications or other authorizations as required by the regulations, and the manager has the authority to sign documents assigned or delegated in accordance with corporate procedures. The administrative authority will assume that these corporate officers have the requisite authority to sign permit applications and other authorizations, unless the corporation has notified the administrative authority to the contrary.

Responsible Official—the person who has the authority to sign a processor agreement, an application for a permit, and/or an application for a high volume end use facility. For corporations, this person shall be a responsible corporate officer. For a partnership or sole proprietorship, this person shall be a partner or the proprietor, respectively. For a municipality, state agency, federal agency, or other public agency, this person shall be a ranking elected official or a principal executive officer of a state or federal agency.

Sale of a Motor Vehicle—any sale and/or lease of a new motor vehicle that would be required to be registered in or intended for use in the state of Louisiana.

Single Event Cleanup—the authorized removal of accumulated waste tires from an unauthorized site.

Site—the physical location, including land area and appurtenances, upon which waste tires and/or waste tire material is located.

Standard Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, or closure of facilities or equipment used or intended to be used to process and/or collect waste tires in accordance with the act, these regulations, and specified permit terms and conditions.

Temporary Permit—a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, or

closure of a particular facility used or intended to be used for processing and/or collecting waste tires and/or waste tire material in accordance with the act, these regulations, and specified permit terms and conditions.

Tire—a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle or off-road vehicle.

Tire Dealer—any person, business, or firm that engages in the sale of tires, including recapped or retreaded tires, for use on motor vehicles.

Tire Wholesaler—any wholesaler, supplier, distributor, jobber, or other entity who distributes tires to retail dealers in this state or to its own retail establishments in this state.

Transporter—a person who transports waste tires.

Unauthorized Waste Tire Pile—an accumulation of more than 20 waste tires whose storage and/or disposal is not authorized by the administrative authority.

Unmanifested Waste Tire—a waste tire transported without a waste tire manifest.

Used Tire—a tire that can be salvaged and sold as a functional motor vehicle tire consistent with definitions and standards contained in the Louisiana Department of Public Safety regulations.

Used Tire Dealer—any person, business, or firm that engages in the sale of used tires for use on motor vehicles.

Waste Tire—a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect and/or has been discarded by the consumer.

Waste Tire Generation—Repealed.

Waste Tire Material—recovered material produced from whole waste tires which have been processed, unless abandoned or otherwise improperly disposed of in a manner that subjects the material to the solid waste regulations.

Waste Tire Transfer Station—an authorized facility where whole waste tires are stored for longer than 24 hours and at which the tires are accumulated as part of the transportation process and are transferred directly or indirectly from transportation vehicles to other vehicles and/or storage containers, for transportation without processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), LR 33:89 (January 2007), amended by the Office of the Secretary, Legal Division, LR 42:244 (February 2016).

§10507. Exemptions

A. Any person, facility, or other entity subject to these regulations that generates, collects, stores, transports, processes waste tires and/or waste tire material, or utilizes waste tires and/or waste tire material in an end-market use project, may petition the administrative authority for an exemption from the waste tire regulations or any portion thereof, when petitions for such are deemed appropriate after consideration of the factors enumerated in Subparagraphs

C.2.a and b of this Section as well as any other pertinent factors.

B. The administrative authority shall make a decision whether or not to grant the exemption requested within 60 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority. In no case shall the time period be greater than one year.

C. Each request for an exemption shall:

1. identify the specific provisions of these regulations from which a specific exemption is sought;

2. provide sufficient justification for the type of exemption sought that includes, but may not be limited to, the following demonstrations:

a. that compliance with the identified provisions would impose an unreasonable economic, technologic, safety, or other burden on the person or the public; and

b. that the proposed activity will have no significant adverse impact on the health, safety, and welfare of the public and the environment, and that it will be consistent with the applicable provisions of the Act;

3. include proof of publication of the notice as required in Paragraph D.1 of this Section, except for emergency exemptions; and

4. be considered by the administrative authority on a case-by-case basis and if approved, the administrative authority shall specify the duration of the exemption.

D. Public Notification of Exemption Requests

1. Persons requesting an exemption shall publish a notice of intent to submit a request for an exemption, except as provided in Paragraph D.2 of this Section. This notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal-notices section of the official journal of the state shall be the only public notice required.

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the administrative authority within 30 days after the granting of an emergency exemption.

E. A vehicle operated by a local government body that is engaged in the collection of waste tires that are located on government property or on road rights of way with the tires to be taken to an authorized waste tire collection center or permitted processing facility may be granted an exemption to the transporter authorization application fee and the transporter maintenance and monitoring fee specified in

LAC 33:VII.10535. A maximum of one vehicle is allowed for each government body under this exemption. In order to be recognized as exempt under this Subsection, the local government body shall submit a transporter notification form to the administrative authority indicating the government body's desire to take advantage of this exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), LR 27:2227 (December 2001), amended by the Office of the Secretary, Legal Division, LR:42:247 (February 2016)

§10509. Prohibitions and Mandatory Provisions

A. No person shall knowingly and/or intentionally dispose unprocessed waste tires in a landfill within the boundaries of the state of Louisiana.

B. No person shall knowingly dispose, discard, burn, abandon, or otherwise release waste tires or waste tire material to the environment within the boundaries of the state of Louisiana, unless given prior written approval from the administrative authority.

C. Except for waste tires stored at the facilities listed in Paragraphs C.2 and 3 of this Section, all waste tires shall be stored in accordance with LAC 33:VII.10519.H. No person shall store more than 20 whole waste tires unless the tires are:

1. collected and stored at a registered tire dealer, registered used tire dealer, or other registered generator of waste tires;

2. collected and stored at an authorized waste tire transfer station, authorized waste tire collection center, or permitted waste tire processing facility;

3. collected and stored at an authorized end-market use project site; or

4. collected and stored at a location authorized in writing by the administrative authority.

D. No person shall transport more than 20 waste tires without first obtaining a transporter authorization certificate.

E. No processor shall receive payment from the Waste Tire Management Fund without a standard processing permit issued by the administrative authority, an effective Processor's Agreement, and an approved end-market use project in which whole waste tires and/or waste tire material are utilized.

F. No authorized generator, collector, or processor shall store any waste tires for longer than 365 days, unless given prior written approval by the administrative authority.

G. All persons subject to these regulations are subject to inspection, audit, and/or enforcement action by the administrative authority, in accordance with the Act and/or these regulations.

H. All persons subject to these regulations shall maintain all records required to demonstrate compliance with these regulations for a minimum of five years. The administrative authority may extend the record retention period in the event of an investigation. The records shall be maintained and shall be made available for audit and/or inspection during regular business hours at the regulated facility's place of business unless an alternate storage location is approved in writing by the administrative authority. A copy of the

approval shall be maintained at the place of business subject to the audit and/or inspection. All records stored at an approved alternate location shall be provided within 48 hours of the request by the administrative authority.

I. All persons who sell tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fees due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

J. All tire wholesalers shall notify the administrative authority on a form available on the department's website and maintain records of all tire sales made in Louisiana. These records shall contain the name and address of the tire purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be maintained by tire wholesalers for a minimum of five years and shall be made available for audit and/or inspection at the wholesaler's place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Division, LR 42:248 (February 2016).

§10511. Permit System

A. Permit Requirements

1. **Scope.** Persons, other than generators and government agencies, operating facilities that collect waste tires and/or process waste tires or waste tire material must secure a permit and are subject to the requirements detailed in these regulations.

2. Types of Permits

a. **Temporary Permits.** A temporary permit allows continued operation of an existing collection center and/or waste tire processing facility, in accordance with an approved interim operational plan, but does not allow the expansion or modification of the facility without approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

i. *order to upgrade*—to allow operations to continue at an existing facility while a standard permit application is being processed; or

ii. *order to close*—to allow operations to continue at an existing facility while a closure plan is being processed or while a facility is being closed in accordance with a closure plan.

b. **Standard Permit.** The permit issued by the administrative authority to applicants that have successfully completed the standard permit application process.

3. Permit Provisions

a. **Permit Duration.** A standard permit issued to a processing and/or collection facility shall be valid for five years from the date of issuance. Permit renewal applications shall be submitted no less than 365 calendar days before the

expiration date of the standard permit, unless written permission for later filing is granted by the administrative authority. If the renewal application is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the renewal application on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

b. **Transfer of Permit.** Permits issued pursuant to these regulations are assigned only to the permittee and cannot be transferred, sublet, leased, or assigned, without prior written approval of the administrative authority.

B. **Modifications.** No modifications shall be made to the permit or facility without prior written approval from the administrative authority.

C. **Suspension, Modification, or Revocation of Permit.** The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend, modify, or revoke a permit in whole or in part in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), amended by the Office of the Secretary, Legal Division, LR 42:249 (February 2016).

§10513. Permit Process for Existing and Proposed Facilities

A. Applicant Public Notice

1. The prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published, 1 to 45 days prior to submission of the application to the administrative authority. This notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of this state and in a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state will be the only public notice required.

2. The public notice shall be published in accordance with the form provided in LAC 33:VII.11101, Public Notice Example—Appendix A.

3. Proof of publication of the notice shall be included in all waste tire standard permit applications for existing and proposed facilities submitted to the administrative authority.

B. Submittal of Permit Applications

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit six copies to the administrative authority. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. Each waste tire standard permit application shall be accompanied by a remittance in the full amount of the appropriate waste tire standard permit application fee. No

application shall be processed prior to payment of the full amount as specified in LAC 33:VII.10535.

C. Requirements for Public Notification of Permit Application

1. As provided in R.S. 30:2022 and 2418, upon receipt of a permit application the administrative authority shall provide written notice on the subject matter to the parish governing authority and each municipality affected by the application.

2. The administrative authority shall hold a public hearing within 60 days of submission of an application.

3. The applicant shall publish the hearing notice in the official journal of the parish or municipality on two separate days preceding the hearing. The last day of publication of such notice shall be at least 10 days prior to the hearing. The applicant shall provide the administrative authority with proof of publication.

4. The applicant shall post a notice of the hearing in prominent view of the public for two weeks prior to the hearing in the courthouse, government center, and all the libraries of the parish.

5. A public comment period of at least 30 days shall be allowed following the public hearing.

D. Permit Application Review and Evaluation

1. The applicant shall make available to the administrative authority the assistance of professional engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

2. The applicant shall furnish all other technical information the administrative authority may require to evaluate the waste tire standard permit application, monitor the performance of the facility, and ensure that the purposes of this program are met.

E. Waste Tire Standard Permit Application Review

1. Applications shall be subject to the completeness and technical review requirements of LAC 33:I.1505.A and B.

2. Applications that are determined to be unacceptable for a technical review shall be rejected. The applicant shall be required to resubmit the application to the administrative authority.

3. An applicant whose application is acceptable for technical review, but lacks the necessary information, shall be informed of such in a deficiency letter. These deficiencies shall be corrected by submission of supplementary information within 30 days after receipt of the deficiency letter.

F. Standard Permit Applications Deemed Technically Complete

1. An application that has been deemed technically complete will be accepted for public review. When the permit application is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies shall be distributed for public review as follows:

- a. one copy to the local parish governing authority;
- b. one copy to the municipal governing authority;
- c. one copy to the main branch of the parish public library;
- d. one copy to the department's respective regional office; and
- e. two copies to remain with the department.

2. Each copy of the permit application shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The application shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing for all appendices, figures, etc. A permit application that presents revisions made during the review process as a separate supplement to the application shall not be accepted.

3. After the six copies are submitted to the administrative authority, notices shall be placed in the department's bulletin (if one is available), the official journal of the state, and a major local newspaper of general circulation. The administrative authority shall publish a notice of acceptance for review one time as a single classified advertisement in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The notice shall solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the administrative authority. The notice shall be published in accordance with the sample public notice provided by the administrative authority.

4. A public hearing may be held for any proposed standard permit application when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary.

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice required in Paragraph F.3 of this Section, request that a public hearing be held. If the administrative authority determines that the hearing is warranted, a public hearing shall be held. If the administrative authority determines not to hold the requested hearing, the administrative authority shall send the person requesting the hearing written notification of the determination. The request for a hearing shall be in writing and shall contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, a notice shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. Those persons on the department's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public

hearing. A notice shall also be published in the department bulletin, if available.

7. Receipt of Comments Following a Public Hearing. The administrative authority shall receive comments for 30 days after the date of a public hearing.

G. Issuance or Denial of a Permit

1. The administrative authority shall issue a standard permit or shall issue a standard permit application denial, including reasons for the denial.

2. A temporary permit may be issued to allow closure activities to be accomplished at a facility which has been issued a standard permit application denial.

H. Public Notice of Permit Issuance. No later than 20 days following the issuance of a standard permit, the administrative authority shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state will be the only public notice required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:829 (June 2001), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:2157 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:249 (February 2016).

§10514. Submittal Requirements for High Volume End Use Facility Applications

A. Facility applicants who utilize whole waste tires and/or waste tire material for projects that require extended storage shall apply to the administrative authority for authorization as a high volume end use facility. Submission of the following information shall be provided on the application, which is available on the department's website:

1. name of the business;
2. mailing address including city, state, zip code, and parish;
3. street address including city, state, zip code, and parish;
4. business telephone number;
5. federal identification number and state tax identification number, if applicable;
6. site master plan including where applicable, property lines, buildings, facilities, excavations, drainage, roads, and other appurtenances;
7. name, address, and phone number of a contact person in case of an emergency, if different from the owner;
8. signature of the responsible official certifying under penalty of law, that all information provided in the application is true, accurate, and complete; and

9. any additional information as requested by the administrative authority.

B. The applicant, other than a permitted processor, shall address the standards in LAC 33:VII.10531 and furnish all other technical information required by the administrative authority to evaluate and monitor the end-market use project, and ensure that the goals of the waste tire program are met.

C. Permitted processors shall address the standards in LAC 33:VII.10531.B.

D. An applicant that submits an application that is acceptable for review, but lacks the necessary information, shall be informed of the deficiency(ies) in writing. The applicant shall correct the deficiency(ies) by submitting supplementary information in writing within 30 calendar days after receipt of the deficiency letter.

E. Upon completing review of the application, the administrative authority shall approve or deny the application in writing.

F. Authorization Duration. A high volume end use facility authorization issued under this Section shall be valid for five years from the date of issuance. High volume end use facilities with an effective authorization shall submit to the administrative authority a new authorization application, following the process as contained in this Section, at least 180 calendar days before the expiration date of the authorization, unless written permission for later submission is granted by the administrative authority. If the renewal application is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the renewal application on or before the expiration date of the authorization, the existing authorization shall remain in effect until the administrative authority issues a final decision on the renewal authorization.

G. Applicants who utilize whole waste tires and/or waste tire material for projects that do not require extended storage are not subject to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 42:251 (February 2016).

§10515. Submittal Requirements for End-Market Use Project Applications

A. A permitted processor requesting approval of an end-market use project shall apply to the administrative authority for approval of each project by completing the end-market use project application available on the department's website. Each application contains the following:

1. name of the permitted processor;
2. name of the end-market user utilizing waste tires and/or waste tire material in the project;
3. mailing address, including city, state, zip code, and parish of the end-market user utilizing waste tires and/or waste tire material in the project;
4. physical address, including city, state, zip code, and parish of the end-market use project site;
5. telephone number of end-market user utilizing waste tires and/or waste tire material in the project;
6. site master plan, including, property lines, buildings, facilities, excavations, drainage, roads, and other elements of the site, if applicable;

7. detailed description of the project including drawings and/or pictures;

8. estimate and calculations of waste tires and/or waste tire material needed to complete the project;

9. estimated dates to start and end the project specified as month, day, and year;

10. description of the material to be replaced and the engineering properties of waste tires and/or waste tire material that provide equivalent or improved performance compared to conventional technologies; and

11. name, address, and phone number of a contact person responsible for the daily operations at the project, in case of an emergency;

12. date and signature of the processor and the end-market user utilizing waste tires and/or waste tire material in the project;

13. designation of the project as a one-time project or as a project that requires extended storage; and

14. any additional information as requested by the administrative authority.

B. Land Reclamation Pilot Study

1. The administrative authority will conduct a pilot study to determine the effectiveness of land reclamation using waste tire material.

a. This study will expire on December 31, 2020.

b. At the expiration of the pilot study, the administrative authority will issue a summary report on the results and make a determination on the future allowance of land reclamation projects.

2. In addition to the requirements of this Section, applications for land reclamation projects shall include a plan to confirm the thickness of the cover soil upon completion of the project.

a. This plan shall specify the method used to determine the thickness of the cover soil using either:

i. surveys of the base and top elevations of the cover at a maximum of 100 foot spacing; or

ii. borings taken through the cover at a minimum density of four locations per acre.

b. A report on the implementation of the plan shall be submitted to the administrative authority within 30 days of the approved project completion.

3. Land reclamation will be approved on a case-by-case basis and shall meet the following standards.

a. The applicant shall certify that the proposed location was excavated for a purpose other than the burial of waste tire material.

b. Waste tire material shall be mixed with inert fill material. The waste tire material shall comprise no more than 50 percent of the total volume required to restore the land to its approximate natural grade.

c. Processors may use up to 50 percent of the total annual volume of waste tire material generated at each facility, as determined on a three-year rolling average, for land reclamation projects;

d. Completed projects shall be covered with a minimum of 18 inches of clean soil material;

e. Within 30 days of completing an approved land reclamation project, the end-market user shall update the conveyance record to reflect the use of waste tire material on the property and submit verifiable documentation that this was completed to the administrative authority.

f. Whole tires may not be used in land reclamation projects.

C. Prior to any deviations from the approved project, modifications must be submitted to and approved by the administrative authority in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 42:251 (February 2016).

§10516. Annual Agreements with Waste Tire Processors

A. Standard permitted waste tire processors may apply to the administrative authority for funding to assist them with waste tire processing and marketing costs. To be eligible for payment, the processor shall enter into an agreement with the administrative authority. The agreement shall be renewed annually and is subject to review at any time by the administrative authority. After review, the administrative authority may, for cause, suspend, revoke, and/or modify the agreement by giving the processor a 60 day written notice of its intent to take the intended action, and allowing the processor an opportunity to demonstrate why the intended action should not be taken.

B. Maximum Payments to Processors

1. The agreement shall contain a provision regarding the amount and requirements for payment. Provided the terms and conditions of the agreement are met, standard permitted processors shall be paid a minimum of seven and a half cents per pound of whole waste tires and/or waste tire material that is recycled or that reaches an approved end-market use project in accordance with LAC 33:VII.10535.F.

2. To be eligible for payment from the waste tire management fund, standard permitted processors shall apply and obtain approval from the administrative authority to market whole waste tires and/or waste tire material. The processor shall submit request(s) on a form available from the administrative authority and shall include all of the requirements of LAC 33:VII.10525.D.

C. The agreement shall contain provisions regarding the submission of reports by the processor to the administrative authority, including but not limited to:

1. waste tire facility reports and application for payment;

2. generator manifests in accordance with LAC 33:VII.10534.B;

3. processor manifests in accordance with LAC 33:VII.10534.C;

4. monthly collection center reports;

5. unmanifested waste tire logs;

6. Louisiana Department of Agriculture and Forestry certified scale-weight tickets including gross, tare, and net weights; and

7. any other documentation requested by the administrative authority.

D. The agreement shall contain provisions requiring standard permitted processors to comply with LAC 33:VII.10534.

E. The agreement shall contain provisions requiring the standard permitted processor to submit an annual report on all approved end-market use projects to the administrative authority. This report is due no later than January 31 of each year for the previous year's activities, and shall identify approved projects, the amount of all waste tires and/or waste

tire material used in each approved project within the last year, and the date of completion of each project, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:252 (February 2016).

§10517. Standard Waste Tire Processor Permit

Applications

A. Each applicant requesting a standard permit for a waste tire processing facility shall complete the permit application and submit it to the administrative authority. In addition, the standards in LAC 33:VII.10525 shall be incorporated into the appropriate application requirements. The permit application shall include:

1. the name, address, and phone number of the applicant;
2. the name and phone number of the facility contact, if different from the applicant;
3. the name and phone number of a contact person in case of an emergency, if different from the individual specified in Paragraph A.2 of this Section;
4. the business mailing address, including city, state, parish, and zip code;
5. the location and address of the processing facility;
6. the business telephone number;
7. the federal identification number and state tax identification number;
8. a site master plan, including property lines, buildings, facilities, excavations, drainage, roads, and other components of the processor site employed;
9. a copy of written notification to the appropriate local governing authority, stating that the site is to be used as a waste tire processing facility;
10. written documentation from the appropriate local governing authority, stating that the facility is in compliance with local zoning and permitting requirements;
11. written documentation from the property owner granting approval for use of property as a waste tire processing facility, if property owner is other than applicant;
12. proof of publication of Notice of Intent to submit an application for a standard waste tire processing facility permit;
13. a letter of compliance and certification of premises and buildings from the state fire marshal;
14. an operational plan addressing the following:
 - a. facility access and security;
 - b. waste tire acceptance plan to count, record, and monitor incoming quantities of waste tires;
 - c. method to control water run-on/runoff;
 - d. days and hours of operation;
 - e. waste tire storage method in detail:
 - i. dimensions of waste tire piles;
 - ii. maximum number of waste tires and volume of waste tire material to be stored at any one time;
 - iii. width of fire lanes;

- iv. method of storage to exclude standing water;
- v. type of access roads; and
- vi. emergency control plans in case of fire or accident, etc.;

f. a detailed description of the waste tire processing method to be used, including daily capacity and technical support to determine daily capacity, such as the processing capacity of the limiting piece of processing equipment;

g. site grounds maintenance and disease vector control to minimize vector-breeding areas and animal attraction:

i. controlling fly, mosquito, and other insect emergence and entrance;

ii. controlling rodent burrowing for food or harborage; and

iii. controlling bird and animal attraction;

h. buffer zones; and

i. method to control and/or treat any process water;

15. evidence of commercial general liability insurance in the amount of no less than \$1 million applicable to on-site and off-site liability provided by an insurer who is admitted, authorized, or eligible to conduct insurance business in Louisiana;

16. site closure plan to assure clean closure. The closure plan must be submitted as a separate section with each application to ensure clean closure, and include the following:

a. the method to be used and steps necessary for closing the facility;

b. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive;

c. the maximum inventory of whole waste tires and waste tire material on-site at any one time over the active life of the facility;

d. a schedule for completing all activities necessary for closure; and

e. the sequence of final closure as applicable;

17. site closure financial assurance fund;

18. plans, specifications, and operations represented and described in the permit application or permit modifications shall be prepared under the supervision of and certified by a professional engineer licensed in the state of Louisiana;

19. a signed legal certification that all information provided in the application is true and correct with the knowledge of the possibility of punishment under the law for false information;

20. date and signature of responsible official;

21. name of authorized agent for service of process, if applicable; and

22. required information regarding facility site assessments as follows:

a. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

b. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

c. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing non-environmental benefits;

d. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing non-environmental benefits; and

e. a discussion and description of the mitigating measures which would offer more protection to the environment than the facility, as proposed, without unduly curtailing non-environmental benefits.

B. Mobile Processors

1. Submission of the following information shall be provided on the application, which is available on the department's website:

a. waste tire processor information which includes:

- i. processor's name;
- ii. processor's LDEQ facility number;
- iii. processor's agency interest (AI) number;
- iv. processor's contact name; and
- v. processor's contact telephone number;

b. processing site location(s) information for each site, where mobile processing will be conducted, during the authorization period denoted on the certificate shall include:

- i. type of location(s) listed on the waste tire mobile processor application form;
- ii. processing location address/physical description, city, and parish;
- iii. location LDEQ facility number;
- iv. location agency interest (AI) number;
- v. location contact's name and telephone number;

and
vi. federal and state tax identification numbers for the person where the mobile processing equipment will be operating, if applicable;

c. payment information shall be as specified in LAC 33:VII.10535;

d. a description of each vehicle, truck, trailer, and/or processing unit which will be used by the applicant for the processing of waste tires shall include the make, model, year, license number, and name of registered owner if different from that of the processor;

e. evidence of commercial general liability insurance shall be no less than \$1 million applicable to on-site and off-site liability provided by an insurer who is admitted, authorized, or eligible to conduct insurance business in Louisiana; and

f. certification by the applicant that all information provided in the application is true and correct with the knowledge of the possibility of punishment under the law for false information.

C. Government Agencies. Government agencies intending to operate waste tire processing equipment for the purposes of volume reduction shall notify the administrative authority on a form available on the department's website and shall not be required to obtain a standard waste tire processing permit, provided that the requirements of LAC 33:VII.10525.J are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001

(September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:253 (February 2016).

§10518. Standard Waste Tire Collection Center Permit Application

A. Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application and submit it to the administrative authority. In addition, the standards in LAC 33:VII.10527 shall be incorporated into the appropriate items below. Submission of the following information shall be provided on the application, which is available on the department's website:

1. the name and phone number of the applicant;
2. the name and phone number of the facility contact, if different from the applicant;
3. the name, address, and phone number of a contact person in case of an emergency, if different from the individual specified in Paragraph A.2 of this Section;
4. the business mailing address, including city, state, parish, and zip code;
5. the location of the facility;
6. the business telephone number;
7. the federal identification number and state tax identification number;
8. a site master plan, including property lines, building, facilities, excavations, drainage, roads, and other appurtenances;
9. a copy of written notification to the appropriate local governing authority, stating that the site is to be used as a collection center;
10. written documentation from the appropriate local governing authority, stating that the facility is in compliance with local zoning and permitting requirements;
11. written documentation from the property owner granting approval for use of the property as a collection center, if property owner is other than applicant;
12. proof of publication of notice of intent to submit an application for a standard waste tire collection center permit;
13. a letter of compliance and certification of premises and buildings from the state fire marshal;
14. an operational plan addressing the following:
 - a. facility access and security;
 - b. waste tire acceptance plan to count, record, and monitor incoming quantities of waste tires;
 - c. method to control water run-on/runoff;
 - d. days and hours of operation;
 - e. waste tire storage method:
 - i. dimensions of waste tire piles;
 - ii. maximum number of whole waste tires stored at any one time;
 - iii. width of fire lanes;
 - iv. method of storage to exclude standing water;
 - v. type of access roads; and
 - vi. emergency control plans in case of fire, accident, etc.;
 - f. site grounds maintenance and disease vector control to minimize vector-breeding areas and animal attraction:
 - i. controlling fly, mosquito, and other insect emergence and entrance;

ii. controlling rodent burrowing for food or harborage; and

iii. controlling bird and animal attraction;

g. buffer zones; and

h. method to control and/or treat any process water;

15. evidence of commercial general liability insurance in the amount no less than \$1,000,000 applicable to on-site and off-site liability provided by an insurer who is admitted, authorized, or eligible to conduct insurance business in Louisiana;

16. site closure plan to assure clean closure. The closure plan shall be submitted as a separate section with each application, ensure clean closure, and include the following:

a. the method to be used and steps necessary for closing the facility;

b. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive;

c. maximum inventory of whole waste tires on-site at any one time over the active life of the facility;

d. a schedule for completing all activities necessary for closure; and

e. the sequence of final closure as applicable;

17. site closure financial assurance fund;

18. plans, specifications, and operations represented and described in the permit application or permit modifications shall be prepared under the supervision of and certified by a professional engineer licensed in the state of Louisiana;

19. a signed legal certification that all information provided in the application is true and correct with the knowledge of the possibility of punishment under the law for false information;

20. date and signature of the responsible official;

21. name of authorized agent for service of process, if applicable; and

22. required information regarding facility site assessments as follows:

a. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

b. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

c. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing non-environmental benefits;

d. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing non-environmental benefits; and

e. a discussion and description of the mitigating measures which would offer more protection to the environment than the facility, as proposed, without unduly curtailing non-environmental benefits.

B. Government agencies intending to operate a waste tire collection center shall notify the administrative authority on a form available on the department's website prior to operating the waste tire collection center. Government

agencies operating waste tire collection centers shall not be required to obtain a standard waste tire collection center permit provided they meet the requirements of LAC 33:VII.10527.H.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 42:254 (February 2016).

§10519. Standards and Responsibilities of Waste Tire Generators and Sellers of Tires

A. Within 30 days of commencement of business operations or when requested by the administrative authority, generators of waste tires that store more than 20 whole waste tires and/or persons who sell tires shall notify the administrative authority of their existence and obtain a generator identification number. The identification number shall be obtained by the generator prior to initiating a waste tire manifest. Notification shall be on a form available on the department's website.

B. Tire dealers must accept from the purchaser, at the time of purchase, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire. Tire dealers may accept additional waste tires from the customer; however, the additional tires are considered program ineligible waste tires and shall be documented on the waste tire manifest as ineligible waste tires.

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. These fees shall also be collected upon replacement of all recall and adjustment tires. These fees shall be collected whether or not the purchaser retains the waste tires. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall:

1. remit all waste tire fees as required by LAC 33:VII.10535.B to the administrative authority on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance;

2. submit with the waste tire fees, the monthly waste tire fee report (Form WT02, available from the Office of Management and Finance) to the Office of Management and Finance on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected;

3. keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each monthly waste tire fee report for a period of no less than five years; and

4. maintain the required records in accordance with LAC 33:VII.10509.H.

E. In any case where a tire dealer has failed to report and remit the waste tire fee to the administrative authority, and the dealer's records are inadequate to determine the proper amount of fee due, or in any case where a grossly incorrect report or a report that is false or fraudulent has been submitted by the tire dealer, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the tire dealer.

F. Tire dealers shall prominently display to the public sector the notification provided by the administrative authority indicating that:

1. "It is unlawful for any person to dispose, discard, burn, or otherwise release waste tires to the environment in a manner in contravention to the Louisiana Solid Waste Regulations. A fine of up to \$32,500 per day per violation may be imposed on any company or individual who violates these rules and regulations."

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee from the consumer at the time of the retail sale of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, \$10 for each off-road tire, and \$1.25 for recapped or retreaded tires. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires."

G. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice and identified as the "LDEQ waste tire fee." The LDEQ waste tire fee shall not include any additional fees. No tax of any kind shall be applied to this fee.

H. Generators of waste tires, required to register in accordance with LAC 33:VII.10519.A, shall comply with the manifest requirements of LAC 33:VII.10534.

I. For all waste tires collected and/or stored, generators shall provide:

1. a cover adequate to exclude water from the waste tires;
2. vector and vermin control; and
3. means to prevent or control standing water in the storage area.

J. Generators of waste tires, required to register in accordance with Subsection A of this Section may store waste tires up to 120 days after receipt or generation. However, a registered generator of waste tires may store waste tires a maximum of 365 days, provided:

1. the storage is solely for the purpose of accumulating such quantities as are necessary for cost effective transportation and processing; and
2. documentation supporting the storage period and the quantity generated is made available at the generator's facility for audit and/or inspection.

K. No more than 150 tires shall be stored at the generator's place of business at one time, unless stored indoors or in a transportable collection container.

L. No tire dealer shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the tire dealer generates 50 or less waste tires per month from the sale of 50 tires. In this case, the tire dealer may transport up to 20 waste tires to a permitted processing facility.

M. A generator or tire dealer who ceases operation at the registered location shall notify the administrative authority in writing within 10 days of the date of the closure or relocation of the business. This written notice shall include information regarding the location and accessibility of the records required by Subsections D, O, and/or P of this Section, as applicable.

N. Waste tires shall be segregated from any usable tires.

O. All tire wholesalers shall maintain records of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be maintained by tire wholesalers for a minimum of five years and shall be made available for audit and/or inspection at their place of business during regular business hours.

P. All generators of waste tires, required to register in accordance with Subsection A of the Section, and not required to collect fees, shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than five years.

Q. In addition to the applicable requirements of this Section, qualified scrap or salvage yards shall make available to the administrative authority the register of business transactions as required by R.S. 32:784(A), and also maintain a record of the number of tires recovered from Louisiana-titled vehicles, which tires are resold. These records shall be maintained for a minimum of five years and shall be made available for audit and/or inspection at their place of business during regular business hours.

R. All persons required to register in accordance with Subsection A of this Section, shall notify the administrative authority when any information provided on the notification form changes. Only changes in mailing address, telephone number, and contact name may be made by submitting the corrections on the monthly waste tire fee report Form WT-02. All other corrections shall be submitted within 10 days of the change on a new waste tire generator notification form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:90 (January 2007), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:255 (February 2016).

§10521. Standards and Responsibilities of Sellers of Motor Vehicles

A. Within 30 days of commencement of business operations, or when requested by the administrative authority, motor vehicle dealers shall notify the administrative authority of their existence and obtain an identification number. Notification shall be made using the form available on the department's website.

B. Motor vehicle dealers doing business in the state of Louisiana, who sell new vehicles, shall be responsible for the collection from the consumer of the \$2 waste tire fee for each tire upon the sale of each vehicle with passenger/light truck tires, the \$5 waste tire fee for each tire upon the sale of each vehicle with medium truck tires, and the \$10 waste tire fee for each tire upon the sale of each off-road vehicle. No fee is collected on the designated spare tire. These fees shall also be collected upon replacement of all recall and adjustment tires. The department does not require the collection of fees on the sale of a vehicle with tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

C. Dealers of used motor vehicles doing business in the state of Louisiana shall not be subject to this Section. However, dealers of used motor vehicles who buy tires at wholesale and mount them on a used vehicle prior to sale are considered waste tire generators and are subject to the requirements of LAC 33:VII.10519.

D. Motor vehicle dealers shall:

1. remit all waste tire fees as required by LAC 33:VII.10535.B to the administrative authority on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance;

2. submit with the waste tire fees a monthly waste tire fee report (Form WT02, available from the Office of Management and Finance) to the Office of Management and Finance on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected;

3. maintain and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than five years; and

4. maintain the records in accordance with LAC 33:VII.10509.H.

E. In any case where a motor vehicle dealer has failed to report and remit the waste tire fee to the administrative authority, and the dealer's records are inadequate to determine the proper amount of fee due, or in any case where a grossly incorrect report or a report that is false or fraudulent has been submitted by the dealer, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the motor vehicle dealer.

F. Motor vehicle dealers shall prominently display to the public the notification provided by the administrative authority, indicating that:

"All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from

the consumer of \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon the sale of each new motor vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires."

G. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice or buyers order and identified as the "LDEQ waste tire fee." The LDEQ waste tire fee shall not include any additional fees. No tax of any kind shall be applied to this fee.

H. A motor vehicle dealer who ceases the sale of motor vehicles at the registered location shall notify the administrative authority in writing within 10 days of the date of the close or relocation of the business. This written notice shall include information regarding the location and accessibility of the records required by Subsection D of this Section.

I. Motor vehicle dealers, who generate waste tires, shall comply with the requirements of LAC 33:VII.10519.L, and the manifest requirements of LAC 33:VII.10534.

J. Motor vehicle dealers shall also comply with LAC 33:VII.10519.I-K, and Q, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:91 (January 2007), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:256 (February 2016).

§10523. Standards and Responsibilities of Waste Tire Transporters

A. Any person who transports more than 20 waste tires within the state of Louisiana shall comply with all of the requirements for transporters contained in this Section.

B. No person shall transport more than 20 waste tires without a valid transporter authorization certificate and a completed manifest satisfying the requirements of LAC 33:VII.10534. The manifest provision shall not apply to state and local governments utilizing vehicles to transport waste tires from rights-of-way to government agency collection centers satisfying the requirements of LAC 33:VII.10527.H.

C. Transporter of waste tires shall complete the transporter authorization application form available on the department's website. Along with the application, the transporter shall submit proof of commercial liability insurance and financial responsibility in the form of a surety bond, containing the language provided in LAC 33:VII.1303.D.1 and Section 11103, Appendix B, in a minimum amount of \$10,000, or as determined by the secretary, and pay the transporter fees as specified in LAC 33:VII.10535.A. The transporter shall provide other documentation deemed necessary by the administrative authority, to the administrative authority prior to transporting waste tires.

D. Upon satisfying the requirements of Subsection B of this Section and obtaining approval by the administrative authority, the appropriate number of authorization certificates and transporter decals shall be issued. All transporter authorization certificates and transporter decals

expire on July 31 of each calendar year. The transporter decals shall be placed in accordance with Subsection H of this Section. The administrative authority may suspend, revoke, or deny transporter authorization certificates for cause. Such cause shall include, but not be limited to:

1. violations of federal or state law;
2. failure to maintain a complete and accurate record of waste tire shipments;
3. falsification of shipping documents or waste tire manifests;
4. delivery of waste tires to a facility not permitted to accept the tires;
5. failure to comply with any rule or order issued by the administrative authority pursuant to the requirements of this regulation;
6. unauthorized disposal of waste tires and/or waste tire material; or
7. collection or transportation of waste tires without a valid transporter authorization.

E. Transporters shall reapply for authorization certificates in accordance with Subsection B of this Section on an annual basis and the application shall be submitted no later than July 1 of each calendar year.

F. A transporter of waste tires shall only accept and transport waste tires from generators who have notified and obtained a valid generator identification number from the administrative authority.

G. For in-state waste tire transportation, the transporter shall transport all waste tires only to an authorized collection center, an authorized waste tire transfer station, a permitted processing facility, or an authorized end-market use.

H. The transporter shall affix the transporter decal to the driver and passenger sides of each registered vehicle listed on the notification form. The transporter authorization certificate shall be kept in the registered vehicle at all times.

I. All persons subject to this Section shall notify the administrative authority in writing within 10 days when any information on the authorization certificate changes or if they cease transporting waste tires.

J. All persons who use company-owned or company-leased vehicles to transport tire casings for the purpose of retreading between company-owned or company-franchised retail tire outlets, and retread facilities owned or franchised by the same company are not considered waste tire transporters unless they also transport waste tires.

K. Prior to transporting any waste tire material in the state of Louisiana, all persons shall notify the administrative authority on a form available on the department's website. Except for the notification requirement and the manifest requirements in LAC 33:VII.10534.C, persons transporting only waste tire material are not subject to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), LR 27:831 (June 2001), repromulgated LR 27:1885 (November 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:2159

(October 2007), amended by the Office of the Secretary, Legal Division, LR 42:257 (February 2016).

§10524. Standards and Responsibilities of Waste Tire Transfer Stations

A. No person shall operate a waste tire transfer station without authorization from the administrative authority. Owners and/or operators of waste tire transfer stations shall:

1. complete the waste tire transfer station authorization form available on the department's website. The form shall be submitted to the administrative authority for review;
2. comply with existing local zoning and comprehensive land-use regulations and ordinances;
3. provide advanced written notice, at least 30 days prior to construction/operation, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a waste tire transfer station.

B. Authorization Duration. A waste tire transfer station authorization issued under this Section shall be valid for two years from the date of issuance. Waste tire transfer stations with an effective authorization shall submit to the administrative authority a new authorization application, following the process as contained in this Section, at least 90 calendar days before the expiration date of the authorization, unless written permission for later submission is granted by the administrative authority. If the renewal application is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the renewal application on or before the expiration date of the authorization, the existing authorization shall remain in effect until the administrative authority issues a final decision on the renewal authorization.

C. The administrative authority may, for cause, suspend, revoke, and/or modify this authorization by giving the owner and/or operator a 60 day written notice of its intent to take the intended action, and allowing the owner and/or operator an opportunity to demonstrate why the intended action should not be taken.

D. No processing or disposal shall occur at a waste tire transfer station.

E. Tires shall not be stored at the waste tire transfer station for more than 10 days after the initiation of the manifest by the generator.

F. Waste tires shall be stored in locked containers or trailers which prevent the collection of rainwater. These storage containers shall remain locked at all times to prevent unauthorized access.

G. Manifests for the waste tires at the facility shall be maintained in a secure manner at the transfer station until such time that the tires represented on the manifest are transported to a permitted processor. Manifests shall be made available upon inspection and/or audit.

H. Waste tire transfer stations are only allowed to receive waste tires from authorized transporters.

I. Owners and operators of waste tire transfer stations shall notify the administrative authority in writing within 10 days of the date of the closure or relocation of the facility. No less than 10 days prior to closure or relocation of the transfer station, all waste tires shall be removed from the transfer station and transported to a permitted processing facility.

J. Signs shall be prominently posted to discourage promiscuous dumping at the waste tire transfer station.

K. Notwithstanding the provision in Subsection F of this Section, persons operating a waste tire transfer station intending to store waste tires on the ground shall comply with the following requirements.

1. A buffer zone of not less than 50 feet between the facility and the property line shall be established and maintained. A reduction in the buffer zone requirements shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 50 feet from the facility. The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the conveyance records of the parish or parishes in which the landowners' properties are located. The affidavit(s) shall be maintained with the records of the facility. No storage of waste tires shall occur within the facility's buffer zone.

2. Security shall be provided for the facility in the form of a fence surrounding the facility to prevent unauthorized ingress or egress except by willful entry. During operating hours, each facility entry point shall be continuously monitored, manned, or locked. During non-operating hours, each facility entry point shall be locked.

3. Waste tires shall be stored in a manner to prevent the collection of rainwater.

4. No waste tires shall be stored in standing water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 42:258 (February 2016).

§10525. Standards and Responsibilities of Waste Tire Processors

A. Before receiving a shipment of waste tires from a relocated generator (one from which, the processor has not previously received shipments) or one that has changed ownership, the processor shall verify, using the Generator List on the department's website, that the generator's status is active and determine the generator's status as eligible or ineligible. If waste tires originating from an ineligible generator are marked eligible on the manifest, the processor shall follow the procedures outlined in LAC 33:VII.10534.B.7 for correcting a discrepancy on the manifest. The processor shall notify the administrative authority upon becoming aware of generators who have not registered.

B. Receipt of Tires

1. Upon receiving a shipment containing waste tires, the processor shall be responsible for verifying the number of eligible and ineligible waste tires in the shipment by actually counting each waste tire. The processor shall sign each waste tire manifest upon receiving the waste tires. Permitted processors with an agreement with the administrative authority can be reimbursed from the waste tire management fund for only those eligible tires accepted from authorized Louisiana transporters or from generators as specified in LAC 33:VII.10519.L.

2. Processors may accept no more than 20 unmanifested waste tires from a person, per day, per vehicle. However, the processor will only be eligible for reimbursement from the waste tire management fund for five

of the unmanifested waste tires received, provided the tires are defined as *program eligible waste tires*. The processor shall maintain the unmanifested waste tire log on a form provided by the administrative authority for all unmanifested waste tires. The log shall include, at the minimum, the following:

a. the name, address, phone number, and driver's license number with state of issuance of the person delivering the waste tires;

b. the license plate number of the vehicle delivering the tires;

c. the number, type, and whether the tires are eligible or ineligible;

d. the date and the signature of the person delivering the tires; and

e. an explanation of how the waste tires were generated.

C. No processor shall list on the unmanifested waste tire log an ineligible tire as eligible.

D. On a form available on the department's website, all processors shall submit a monthly report on or before the twelfth day of each month. That monthly report shall include:

1. waste tire facility reports and application for payment;

2. generator manifests in accordance with LAC 33:VII.10534.B;

3. processor manifest in accordance with LAC 33:VII.10534.C;

4. monthly collection center reports, if applicable;

5. unmanifested waste tire logs;

6. Louisiana Department of Agriculture and Forestry certified scale-weight tickets including gross, tare, and net weights; and

7. any other documentation requested by the administrative authority.

E. Permitted processors who have an effective processor's agreement shall submit an annual report on all approved end-market use projects to the administrative authority. This report is due no later than January 31 of each year for the previous year's activities, and shall identify approved projects, the amount of all whole waste tires and/or waste tire material used in each approved project within the last year, and the date of completion of each project, if applicable.

F. Waste tire processors shall provide completed copies of waste tire manifests to the appropriate waste tire generator within 30 days of the origination date of the manifest and shall comply with all other requirements of LAC 33:VII.10534.

G. All waste tire processors shall meet the following standards:

1. control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide;

2. maintain a buffer zone of 100 feet. Waste tires and waste tire material shall not be placed in the buffer zone. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 100 feet from the facility. The processor shall enter a copy of the notarized affidavit(s) in the conveyance

records of the parish or parishes in which the landowners' properties are located;

3. prohibit open burning;
4. enter into a written agreement with the local fire department regarding fire protection at the facility;
5. develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment;
6. provide suitable drainage structures or features to prevent or control standing water in the waste tires, waste tire material, and associated storage areas;
7. control all water discharges, including stormwater runoff, from the site in accordance with applicable state and federal rules and regulations;
8. maintain an acceptable and effective disease vector control plan approved by the administrative authority;
9. maintain waste tires and waste tire material in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority. The number of piles shall be based on the maximum amount of waste tires and/or waste tire material to be stored in accordance with Paragraph G.12 of this Section, the dimensions of the piles, and an appropriate industry standard density;
10. maintain lanes between piles of waste tires and/or waste tire material a minimum width of 50 feet to allow access by emergency vehicles and equipment;
11. ensure that lanes to and within the facility are free of potholes and ruts and be designed and maintained to prevent erosion;
12. store no more than 60 times the daily permitted processing capacity of the processing facility. The daily capacity of the facility shall be calculated using the daily throughput of the limiting piece of processing equipment and the daily operating hours of the facility;
13. upon ceasing operations, processors shall ensure clean closure;
14. all waste tire facility operators shall maintain a site closure financial assurance fund in an amount based on the maximum number of pounds of waste tires and/or waste tire material that will be stored at the processing facility site at any one time. This fund shall be in the form of a financial guarantee bond, performance bond, or an irrevocable letter of credit in the amount of \$20 per ton of waste tires and/or waste tire material on the site. A standby trust fund shall be maintained for the financial assurance mechanism that is chosen by the facility. The financial guarantee bond, performance bond, irrevocable letter of credit, or standby trust fund must use the exact language included in the documents in LAC 33:VII.11103.Appendix B. The financial assurance must be reviewed at least annually;
15. an alternative method of determining the amount required for financial assurance shall be as follows:
 - a. the processor shall submit to the administrative authority an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;
 - b. the processor shall also submit to the administrative authority two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material,

transportation to a permitted disposal site, and the disposal cost; and

- c. if the estimates provided are lower than the required \$20 per ton of waste tires and/or waste tire material, the administrative authority shall evaluate the estimates submitted and determine the amount of financial assurance that the processor is required to provide;

16. financial assurances for closure and post-closure activities must be in conformity with the standards contained in LAC 33:VII.1303 and the sample documents in §11103.

H. Processors shall only deliver waste tires and/or waste tire material to end-market users in the amount approved by the administrative authority and shall not deliver waste tires and/or waste tire material in anticipation, or prior to approval, of end-market use projects. Processors violating this provision shall promptly remove any improperly delivered whole tires and/or waste tire material and either properly dispose of and/or find another approved end-market use for the whole tires and/or waste tire material. In any case, the use of improperly delivered whole waste tires and/or waste tire material shall not entitle the processor to an additional payment from the waste tire management fund. In the event the processor chooses to properly dispose of the material, he shall reimburse the waste tire management fund for any payments received for the disposed material.

I. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Each applicant requesting a mobile processor authorization certificate pursuant to these regulations shall complete the mobile processor application in accordance with LAC 33:VII.10517.B.

2. The appropriate mobile processor application fee shall be submitted with the application in accordance with LAC 33:VII.10535.A.3.

3. The administrative authority will review the mobile processor authorization application and issue a mobile processor authorization certificate, if appropriate. Mobile processing operations are prohibited without a valid authorization certificate.

4. A mobile processor authorization certificate is valid for one year from the date of issuance. Mobile processors shall reapply in accordance with LAC 33:VII.10517.B on an annual basis, no later than 30 days prior to the expiration of the certificate.

5. For mobile waste tire processing, the processor shall operate only at an authorized collection center, a permitted processing facility, or other sites with prior written authorization from the administrative authority.

6. For mobile waste tire processing, the processor shall:

- a. prohibit open burning;
- b. provide fire protection at the processing location; and
- c. locate processing equipment;
 - i. in an area of sufficient size and terrain to handle the processing operation;
 - ii. a minimum of 100 feet from all adjacent property lines, unless otherwise authorized by the administrative authority;
 - iii. away from utilities, such as power lines, pipelines, or potable water wells; and

iv. near roadways and entrances suitable for truck hauling waste tires and/or waste tire material.

7. Immediately upon processing, the waste tire material shall be deposited in a transportable collection container. All waste tire material shall be removed within 10 days from the date of processing.

8. No processed material shall be deposited on the ground at the processing location at any time.

9. Mobile processors shall submit a monthly report on or before the twelfth day of each month for the previous month's activity, including months in which no activity occurred. This report shall be submitted on a form available on the department's website detailing the processing activities at the authorized location. The information in the report shall include, but is not limited to:

- a. site physical address;
- b. number of whole tires processed;
- c. weight (in pounds) of processed material removed from the site, verified by certified scale weight tickets; and
- d. number of tires remaining to be processed.

10. Mobile processors are responsible for notifying the administrative authority in writing within 10 days when any information on the mobile processor authorization application changes, prior to moving to another authorized location, or if operations cease.

J. Government agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in Paragraphs I.6-8 and 10 of this Section, and receive written authorization from the administrative authority before initiating any processing.

K. Processors shall maintain a complete set of records pertaining to manifested tires or waste tire material coming in or leaving their place of business. This shall include, but is not limited to, manifests, monthly reimbursement reports, records of all payments from/to end-markets, inventory records, logs, any documents related to out-of-state tire activity, and financial records. These records shall be maintained for a period of no less than five years and shall be made available for audit and/or inspection at the processor's place of business during regular business hours.

L. After review, the administrative authority may, for cause, suspend, revoke, and/or modify the standard permit and/or mobile processor authorization by giving the processor a 60 day written notice of its intent to take the intended action, and allowing the processor an opportunity to demonstrate why the intended action should not be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 28:1953 (September 2002), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:2159 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:259 (February 2016).

§10527. Standards and Responsibilities for Waste Tire Collection Centers

A. Receipt of Tires

1. All collection center operators shall be responsible for counting the number of tires in each shipment. The collection center shall report monthly on a form available on the department's website. The monthly report shall be submitted to the administrative authority no later than the fifteenth day of each month for the previous month's activity, documenting the total number of tires received at the facility along with copies of the unmanifested waste tire log sheets. These records shall be maintained by the collection center for a minimum of five years and shall be made available for audit and/or inspection at the collection center's place of business during regular business hours.

2. Each collection center shall accept no more than five unmanifested waste tires per individual, per day per vehicle. These five tires will be eligible, provided the tires are defined as *program eligible waste tires*. The collection center shall maintain on a form available on the department's website, the unmanifested waste tire log of all unmanifested waste tires. The log shall include, at the minimum, the following:

- a. the name, address, phone number, and driver's license number of the person delivering the waste tires;
- b. the license plate number with state of origin of the vehicle delivering the tires;
- c. the number and type of tires and whether the tires are eligible or ineligible;
- d. the date and the signature of the person delivering the tires; and
- e. an explanation as to how the waste tires were generated.

B. All collection center operators shall meet the following standards:

1. control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide;

2. maintain a buffer zone of 100 feet. Waste tires shall not be placed in the buffer zone. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 100 feet from the facility. The collector center operator shall enter a copy of the notarized affidavit(s) in the conveyance records of the parish or parishes in which the landowners' properties are located;

3. prohibit open burning;

4. enter into a written agreement with the local fire department regarding fire protection at the facility;

5. develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment;

6. provide suitable drainage structures or features to prevent or control standing water in the waste tires and associated storage areas;

7. control all water discharges, including stormwater runoff, from the site in accordance with applicable state and federal rules and regulations;

8. maintain an acceptable and effective disease vector control plan approved by the administrative authority;

9. maintain waste tires in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority. The number of piles shall be based on the maximum amount of waste tires to be stored in accordance with Subsection C of this Section, the dimensions of the piles, and an appropriate industry standard density;

10. maintain lanes between piles of waste tires a minimum width of 50 feet to allow access by emergency vehicles and equipment;

11. ensure that lanes to and within the facility be free of potholes and ruts and be designed and maintained to prevent erosion.

C. Collection centers shall store no more than 3,000 whole waste tires at any time.

D. Use of mobile processing units are allowed at collection centers. Immediately upon processing, the waste tire material shall be deposited in a transportable collection container for immediate removal from the site. All waste tire material shall be removed from the collection center by the processor within 10 days from the date of processing.

E. No processed waste tire material shall be deposited on the ground at a collection center at any time.

F. All collection center operators shall satisfy the manifest requirements of LAC 33:VII.10534.

G. The closure plan for all collection centers must ensure clean closure and must include the following:

1. the method to be used and steps necessary for closing the collection center;

2. a detailed and itemized estimated cost of closure of the collection center, based on the cost of hiring a third party to close the collection center at the point in the center's operating life when the extent and manner of its operation would make closure the most expensive;

3. the maximum inventory of whole waste tires ever on-site over the active life of the collection center;

4. a schedule for completing all activities necessary for closure; and

5. the sequence of final closure as applicable;

6. all collection center operators shall maintain a site closure financial assurance fund in an amount based on the maximum number of pounds of waste tires that will be stored at the collection center at any one time. This fund shall be in the form of a financial guarantee bond, performance bond, or an irrevocable letter of credit in the amount of \$20 per ton of waste tires on the site. A standby trust fund shall be maintained for the financial assurance mechanism that is chosen by the facility. The financial guarantee bond, performance bond, irrevocable letter of credit, or standby trust fund must use the exact language included in the documents in LAC 33:VII.11103, Appendix B. The financial assurance must be reviewed at least annually;

7. an alternative method of determining the amount required for financial assurance shall be as follows:

a. the collection center operator shall submit to the administrative authority an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the collection center operator shall also submit to the administrative authority two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tires, transportation to a permitted processing facility;

c. if the estimates provided are lower than the required \$20 per ton of waste tires, the administrative authority shall evaluate the estimates submitted and determine the amount of financial assurance that the collection center is required to provide;

8. financial assurances for closure and post-closure activities must be in conformity with the standards contained in LAC 33:VII.1303 and the sample documents in LAC 33:VII.11103.

H. Government Agencies

1. Government agencies intending to operate collection centers will not be required to obtain permits, provided that the collection center is:

a. located on property owned or otherwise controlled by the government agency, unless otherwise authorized by the administrative authority;

b. attended by personnel during operational hours and have controlled ingress and egress during non-operational hours; and

c. staffed by personnel witnessing the loading and unloading of waste tires.

2. Government agencies operating collection centers shall:

a. only accept waste tires from roadside pickup, from rights-of-way, and individuals;

b. not accept tires from registered generators;

c. not allow the removal of waste tires by anyone other than an authorized transporter;

d. operate under a fire and disease vector control plan;

e. notify the administrative authority in writing within 10 days of the date of closure, relocation, or when any information provided on the notification form changes; and

f. satisfy the requirements of LAC 33:VII.10509, 10519.I, 10527.A.1 and 2, 10527.C-E, and 10534.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Division, LR 42:261 (February 2016).

§10529. Standards and Procedures for Waste Tire Cleanups

A. Property Owners. Owners of property on which more than 20 waste tires are stored, deposited, or abandoned but were not generated by a waste tire generator authorized by the administrative authority and managed in accordance with LAC 33:VII.10519, shall:

1. provide for and ensure the removal of the waste tires in the following manner;

a. removed by the property owner and transported to a permitted processing facility in quantities of no more than 20 per day;

b. removed by the property owner and transported to an authorized collection center in quantities of no more than five per day; or

c. in accordance with the department's single event cleanup procedures outlined in Subsection B of this Section;

2. provide disease vector control measures adequate to protect the safety and health of the public, and keep the site free of excess grass, underbrush, and other harborage; and

3. limit access to the piles to prevent further disposal of tires or other waste.

B. Single Event Cleanups

1. Single event cleanups may be authorized by the administrative authority to address accumulations of waste tires at unauthorized locations provided that notification is submitted to the administrative authority 30 days prior to the anticipated event. Notification shall be on the single event cleanup/government tire sweep form, which is available on the department's website. The information on the form shall include:

a. type of application;

b. name of responsible business, organization, government entity, or property owner;

c. physical location of abandoned waste tires to be removed;

d. email address of applicant;

e. contact person if different from owner;

f. mailing address;

g. phone number and fax number;

h. reason for request (i.e., promiscuous dump, called in complaint, found on property, tire sweep, or other);

i. estimated number of waste tires to be removed;

j. information describing how the waste tires were generated;

k. name of permitted processor to receive waste tires; and

l. certification that all information provided on the form is true and correct with the knowledge of the possibility of punishment under the law for false information.

2. All waste tires collected shall be removed by an authorized waste tire transporter and processed by the permitted waste tire processor indicated on the single event cleanup/government tire sweep form submitted to the administrative authority. Use of a waste tire processor not indicated on the form must be approved in writing by the administrative authority.

3. The administrative authority shall not be responsible for any cost associated with the removal of the tires.

4. Approval of the cleanup is effective for the time period and amount of waste tires specified in the approval letter. If additional time is needed, a written request shall be submitted to the administrative authority for approval prior to the expiration date indicated in the initial approval letter. Exceedances of 10 percent or more in the estimated number of tires reported in the notification form shall be reported in writing to the administrative authority prior to the expiration date indicated in the initial approval letter.

5. Applicants shall comply with the manifest requirements of LAC 33:VII.10534 and shall identify the tires as ineligible on the manifest.

C. Government Tire Sweeps

1. Government tire sweeps may be authorized by the administrative authority to allow government agencies to collect waste tires provided that:

a. notification is submitted to the administrative authority 30 days prior to the anticipated event. Notification shall be on the single event cleanup/government tire sweep form, which is available on the department's website. The form shall include the information described in Subsection B of this Section.

b. the government agency has not conducted a tire sweep within six months prior to the request.

2. A maximum of five waste tires may be collected per person and no waste tires shall be accepted from businesses. Records of the five tires shall be maintained on the unmanifested waste tire log form, available on the department's website.

3. All waste tires collected shall be transported by an authorized waste tire transporter and processed by the permitted waste tire processor indicated on the single event cleanup/government tire sweep form submitted to the administrative authority. Use of a waste tire processor not indicated on the form must be approved in writing by the administrative authority.

4. Waste tire collection shall only be conducted on the date(s) included in the approval letter. If additional time or alternate dates are needed, the administrative authority shall be notified in writing prior to the expiration date included in the initial approval letter.

5. Government agencies shall comply with the manifest requirements of LAC 33:VII.10534.

D. Waste Tires Discarded by a Third Party. Property owners and government entities cleaning property in which tires have been discarded by a third party and requesting the waste tires be determined eligible shall:

1. notify the administrative authority in writing with information regarding the discarded tires. This information includes, but is not limited to, address of the site, estimated number and type of tires, photographs, and information on person(s) responsible for the discarded tires, if known;

2. obtain and submit to the administrative authority a police report documenting the incident. If a police report cannot be obtained, a written certification shall be submitted to the administrative authority attesting that all information provided in Paragraph 1 of this Section is true and correct;

3. provide the administrative authority a description of the measures taken to prevent future incidents of this nature at the site. These measures include, but are not limited to, limiting access to the site by adding fencing or other means to secure the property, posting signs to deter dumping of tires, and/or using cameras and/or video surveillance to record dumping incidents;

4. provide disease vector control measures adequate to protect the safety and health of the public, and keep the site free of excess grass, underbrush, and other harborage;

5. limit access to the discarded tires to prevent further disposal;

6. not remove the discarded tires from the property prior to obtaining written permission from the administrative authority, which includes an eligibility or ineligibility determination. Unless otherwise determined by the

administrative authority, no more than 520 tires can be eligible per site in a calendar year. Reimbursements from the waste tire management fund will not be approved for any waste tires removed under the authority of this Section which are defined as program ineligible waste tires;

7. ensure the tires are removed by an authorized waste tire transporter and transported to a permitted waste tire processor;

8. comply with the manifest requirements of LAC 33:VII.10534.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), amended by the Office of the Secretary, Legal Division, LR 42:262 (February 2016).

§10531. Standards and Responsibilities of High Volume End Use Facilities

A. All owners and/or operators of high volume end use facilities in Louisiana shall meet the following requirements:

1. control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide;

2. maintain a buffer zone of 100 feet. Waste tires and waste tire material shall not be placed in the buffer zone. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 100 feet from the facility. A copy of the notarized affidavit(s) shall be placed in the conveyance records of the parish or parishes in which the landowners' properties are located;

3. prohibit open burning;

4. enter into a written agreement with the local fire department regarding fire protection at the facility;

5. develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment;

6. provide suitable drainage structures or features to prevent or control standing water in the waste tires, waste tire material, and associated storage areas;

7. control all water discharges, including stormwater runoff, from the site in accordance with applicable state and federal rules and regulations;

8. maintain an acceptable and effective disease vector control plan approved by the administrative authority;

9. maintain waste tires and waste tire material in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority. All facilities shall provide, for approval by the administrative authority, calculations and/or justification of the amount of waste tires and/or waste tire material to be stored at the facility. At no time shall the amount of material stored at the facility exceed the amount approved by the administrative authority;

10. maintain lanes between piles of waste tires or waste tire material a minimum width of 50 feet to allow access by emergency vehicles and equipment;

11. ensure that lanes to and within the facility be free of potholes and ruts and be designed and maintained to prevent erosion;

12. specific projects using whole waste tires and/or waste tire material shall meet the requirements of LAC 33:VII.10532 and shall be submitted, in writing, to the administrative authority for prior approval. High volume end use facilities shall have an approved project in order to receive, store, or utilize waste tires and/or waste tire material;

13. on a form available on the department's website, all high volume end use facility owners and/or operators shall submit a monthly report to the administrative authority, which shall include a certified record of pounds of waste tire material, and/or whole waste tires received and used in an approved end-market use project;

14. all facilities shall maintain, for a minimum of five years, a complete set of the following records:

a. documentation of compliance with the approved storage limits;

b. copies of waste tires and/or waste tire material manifests entering and/or exiting the site of the approved project;

c. copies of required monthly reports; and

d. any documents related to out-of-state activity;

15. all records shall be maintained at the facility and shall be made available for audit and/or inspection during regular business hours.

B. Requirements for Processing Facilities Operating as High Volume End Use Facilities

1. Waste tire material will only be eligible for payment when recycled or that reaches an approved end-market use project.

2. Processors shall comply with all standard processing permit requirements.

3. The processor shall maintain a legible log for all waste tire material being utilized as landscape mulch, and/or playground material. The log shall include, at the minimum, the following:

a. the name and address of the customer;

b. the address where the waste tire material will be used;

c. an explanation as to how the waste tire material will be used;

d. the license plate number and state of issuance of the vehicle picking up the material;

e. the phone number of the customer;

f. the pounds of waste tire material received and the certified weight ticket number associated with the load;

g. the date;

h. the time; and

i. the signature of the customer certifying, under penalty of law, that all information provided in the log is true and correct.

C. Entities located outside Louisiana applying to become a high volume end use facility shall use a form available on the department's website. The applicant shall provide the administrative authority confirmation from their state indicating the facility has the proper permits and is authorized to accept the waste tires and/or waste tire

material. If the facility is not in compliance with applicable regulations of the state in which the facility is located, the administrative authority reserves the right to review the project and make it ineligible for payment and/or deny the high volume end use facility application.

D. Port Facilities Applying to Become a High Volume End Use Facility

1. In instances where waste tires and/or waste tire material is required to be stored in quantities greater than 5,000 whole tires and/or 2,000,000 pounds of waste tire material to facilitate transportation to an approved out-of-state end-market use project, the port where the waste tires and/or waste tire material will be loaded for transportation on water shall submit an application to become a high volume end use facility utilizing a form available on the department's website. For purposes of transportation to end-market use projects out-of-state, waste tires and/or waste tire material shall not be stored at facilities other than approved high volume end use facilities.

2. Waste tires and/or waste tire material shall not be accepted without an approved end-market use project as demonstrated by a copy of the project approval letter from the administrative authority. Waste tires and/or waste tire material shall not be accepted at the facility in anticipation of, or prior to approval of, end-market use projects.

3. Waste tires and/or waste tire material shall not be accepted at the facility in amounts exceeding the end-market use project approval.

4. The facility shall:

- a. prohibit open burning;
- b. provide suitable drainage structures or features to prevent or control standing water in the waste tires, waste tire material, and associated storage areas;
- c. control all water discharges, including stormwater runoff, from the site in accordance with applicable state and federal rules and regulations;
- d. maintain an acceptable and effective disease vector control plan approved by the administrative authority;
- e. maintain waste tires and waste tire material in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority;
- f. maintain lanes between piles of waste tires and/or waste tire material a minimum width of 50 feet to allow access by emergency vehicles and equipment, unless otherwise approved by the administrative authority; and
- g. ensure that lanes to and within the facility be free of potholes and ruts and be designed and maintained to prevent erosion.

5. On a form available on the department's website, the facility owner and/or operator shall submit a monthly report to the administrative authority, which shall include a certified record of the number of waste tires and/or pounds of waste tire material received from each permitted processor and shipped to each approved end-market use project.

6. The facility shall maintain, for a minimum of five years, a complete set of the following records:

- a. copies of waste tires and/or waste tire material manifests entering and/or exiting the place of business;
 - b. copies of end-market use project approval letters;
- and

c. copies of required monthly reports.

7. All records shall be maintained at the facility and shall be made available for audit and/or inspection during regular business hours.

E. After review, the administrative authority may, for cause, suspend, revoke, and/or modify the High Volume End Use Facility's authorization by providing the facility owner a 60 day written notice of the administrative authority's intent to take the intended action and allowing the facility owner an opportunity to demonstrate why the intended action should not be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 42:264 (February 2016).

§10532. End-Market Uses

A. End-market use projects may be approved by the administrative authority on a case-by-case basis. These projects include, but are not limited to, slope stabilization, erosion control, levee construction, lightweight backfill material, roadway stabilization material over soft soils, or other applications as approved by the administrative authority.

1. The administrative authority will review and issue a decision within 15 business days of receipt of an application for the following end-market use projects:

- a. backfill as an alternative to aggregate to promote drainage; and
- b. use in landfill applications such as leachate collection systems.

2. For purposes of Paragraph A.1 of this Subsection, if additional information is requested based on the inadequacy of the application, the 15 day review period is suspended. The review period resumes upon the administrative authority's receipt of the requested information from the applicant.

3. Customary end-market use projects utilizing waste tires and/or waste tire material for tire derived fuel (TDF), lightweight backfill for bulkheads, or crumb rubber applications are considered approved if the administrative authority has not issued to the applicant a project approval, requested additional information, or denied the project within 15 business days of project submittal. The administrative authority reserves the right to add additional projects to the list provided above. The list will be maintained on the department's website.

4. Applications for end-market use projects described in Paragraph A.1 of this Subsection shall be electronically submitted in a manner determined by the administrative authority.

B. Specific projects using whole waste tires and/or waste tire material shall meet the requirements of LAC 33:VII.10533 and LAC 33:VII.10534.

C. Facilities at which whole waste tires and/or waste tire material is utilized for projects that require extended storage must obtain approval as a high volume end use facility in addition to receiving approval of any end-market use project.

D. Unless approved by the administrative authority as a high volume end use facility, end-market users shall not store more than 5,000 whole waste tires or 2,000,000 pounds of waste tire material at the end of any operational day.

E. On a form available on the department's website, end-market users shall submit a monthly report to the administrative authority, unless exempted on a case-by-case basis, which shall include a certified record of pounds of waste tire material or whole waste tires received and a certified record of pounds of waste tire material and/or whole waste tires used in an approved end-market use project.

F. End-market users shall maintain a complete set of records pertaining to waste tires and/or waste tire material coming in or leaving the site of the approved project. The records shall include, but are not limited to, manifests, required monthly reports, inventory records, logs, and any documents related to out-of-state activity as determined by the administrative authority. These records shall be maintained for a period of no less than five years and shall be made available for audit and/or inspection at the end market user's place of business during regular business hours.

G. End-market users shall:

1. prohibit open burning;
2. provide fire protection at the location;
3. locate the project work site:
 - a. in an area of sufficient size and terrain to handle the operation; and
 - b. maintain a minimum distance of 100 feet from nearby residences, businesses, and/or sensitive receptors, (e.g., schools, hospitals, clinics, that will be inconvenienced or adversely affected by use of the site).

H. Whole waste tires and/or waste tire material shall only be utilized in the project as approved by the administrative authority.

I. If the approved amount of waste tires and/or waste tire material delivered exceeds the amount required to complete the approved project, the end-market user shall notify the administrative authority in writing within 15 days of completion of the project. The notification shall include the numbers or weight of waste tires and/or waste tire material, and a description of how the end-market user intends to address the unused material.

J. Within 30 days of completion of any end-market use project, the end-market user shall submit a letter to the administrative authority stating date of completion, the amount of waste tires and/or waste tire material that was needed to complete the project, and amount of unused material.

K. The administrative authority may, for cause, review, suspend, modify, and/or revoke an End-Market Use project authorization by giving the end-market user a five day written notice of its intent to take the intended action, and allowing the end-market user an opportunity to demonstrate why the intended action should not be taken.

L. International End-Market Use Projects

1. Permitted processors shall submit an end-market use application in accordance with LAC 33:VII.10515 and receive written authorization from the administrative authority prior to shipping waste tire material internationally. The information described in LAC 33:VII.10515.A.12 and 13 is not required in applications for international end-market use projects. However, the application shall include a copy of the contract/agreement with the international market

which specifies the amount of waste tire material to be sent to the market. Only the permitted processor shall be required to sign the application.

2. International end-market use projects are not subject to the requirements of Subsections C-H, J, K, and L of this Section.

3. Approved international end-market users are not required to apply for and obtain authorization as high volume end use facilities.

4. In the event the end-market use project is cancelled prior to the waste tire material leaving the port, processors shall promptly remove it and either properly dispose of it or find another approved end market use for the waste tire material. In any case, the use of waste tire material shall not entitle the processor to an additional payment from the waste tire management fund. In the event the processor chooses to properly dispose of the waste tire material, he shall reimburse the waste tire management fund for any payments received for the waste tire material.

5. Processors shall only deliver to the port waste tire material in the amount approved by the administrative authority and shall not deliver waste tire material in anticipation, or prior to approval, of international end-market use projects. Processors violating this provision shall promptly remove any improperly delivered waste tire material and either properly dispose of and/or find another approved end market use for the waste tire material. In any case, the use of improperly delivered waste tire material shall not entitle the processor to an additional payment from the waste tire management fund. In the event the processor chooses to properly dispose of the waste tire material, he shall reimburse the waste tire management fund for any payments received for the disposed waste tire material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), amended by the Office of the Secretary, Legal Division, LR 42:265 (February 2016).

§10533. Project Specifications

A. Civil engineering projects may be approved by the administrative authority on a case-by-case basis. Calculations and/or designs shall be certified by a professional engineer registered in the state of Louisiana, as determined by the administrative authority. Project requests shall include a description of the materials to be replaced and the engineering properties (e.g., strength, permeability, etc.), of the waste tires and/or waste tire material that demonstrate comparable or improved performance to conventional materials. Unless project specifications require otherwise or an alternate design is specified by a professional engineer and approved by the administrative authority, the following requirements shall be met.

1. Landfill Leachate Systems

a. A maximum thickness of 12 inches of tire material shall be used unless otherwise demonstrated by the design engineer. However, in no case shall the thickness of tire material exceed 24 inches.

b. Tire chips shall be separated from geomembranes by a minimum of 12 inches earthen material or as approved in the facility's permit.

2. Gas Collection Systems

a. Tire material may be used to backfill a trench in which pipe associated with the gas collection system is laid.

b. The trench may be no larger than twice the diameter of the pipe or as specified by the design engineer.

3. Bulkhead Backfill/Lightweight Fill. Waste tire material used in bulkhead or lightweight fill applications shall provide comparable or improved performance compared to conventional material.

4. Slope Stabilization/Erosion Control

a. Tire material may be used to control erosion. However, tire material may only be used to rebuild a slope no less than 4(Horizontal):1(Vertical).

b. No more than 6 inches of waste tire material may be placed at the top of the slope and a maximum of 18 inches at the toe, unless the design engineer can demonstrate that additional waste tire material is needed to meet the intended design criteria.

B. Other Projects. A request for other projects shall contain engineering drawings and/or supporting calculations demonstrating compliance with Subsection A of this Section. Projects shall provide for the efficient and proper use of waste tires and/or waste tire material in a manner that does not constitute disposal. Project standards will be determined on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 42:266 (February 2016).

§10534. Manifest System

(Formerly §10533)

A. All shipments, other than those transported in authorized government vehicles transporting waste tires from rights of way to a government agency collection center satisfying the requirements of LAC 33:VII.10507.B, of more than 20 waste tires shall be accompanied by a waste tire manifest provided by the administrative authority and executed in accordance with this Section. Generators offering tires for transport in Louisiana that are ineligible, as defined in LAC 33:VII.10505, shall clearly label such tires as ineligible on the manifest.

B. The generator waste tire manifest flow is as follows.

1. Prior to the tires leaving the facility, the generator initiates the manifest (original and at least five copies), by completing all of section 1 and designating the processing facility in section 4. After the transporter signs the manifest, the generator retains one copy for his files, and the original and all other copies accompany the waste tire shipment. Upon receipt of the waste tires, the transporter completes the section 2, transporter 1 information. If applicable, upon surrender of the shipment to a second transporter, the second transporter completes the section 2, transporter 2 information. After transporter 2 signs the manifest, transporter 1 retains his copy of the manifest.

2. The transporter secures the signature of the designated processing facility operator upon delivery of waste tires to the designated processing facility. The transporter retains one copy for his files and gives the

original and remaining copies to the designated processing facility operator.

3. The designated processing facility operator completes section 4 of the generator waste tire manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the administrative authority with the monthly processor report. The designated processing facility shall provide completed copies of the generator waste tire manifest to the appropriate waste tire generator within 30 days of the origination date of the manifest.

4. Generators, transporters, and processors shall certify that the information submitted in the generator manifest is true and correct to the best of his knowledge.

5. A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated processing facility within 30 days of the date the waste tires were accepted by the initial transporter must contact the transporter and/or the owner or the operator of the designated processing facility to determine the status of the shipment.

6. A generator must submit to the administrative authority written notification, if he has not received a copy of the manifest with the handwritten signature of the designated processing facility operator within 45 days of the date the shipment was accepted by the initial transporter. The notification shall include:

a. a legible copy of the manifest for which the generator does not have confirmation of delivery; and

b. a cover letter signed by the generator explaining the efforts taken to locate the shipment and the results of those efforts.

7. Upon discovering a discrepancy of 10 percent or greater in the number or type of tires in the load, the designated processing facility shall attempt to reconcile the discrepancy with the generator(s) or transporter(s). The processing facility operator must submit to the administrative authority, as part of their monthly report, electronic files containing an itemized list of generator/processor manifests, describing in detail the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved, a corrected copy shall be sent to the administrative authority.

8. Completed manifests shall be maintained by the generator, transporter(s), and processor for a minimum of five years and shall be made available for audit and/or inspection at the generator's place of business during regular business hours.

C. The processor waste tire manifest flow is as follows.

1. The processor initiates the processor's waste tire manifest (original and five copies), by completing all of section 1 and section 3. After the transporter signs the manifest, the processor retains one copy for his files, and the original and all other copies accompany the waste tire material shipment. Upon receipt of the waste tire material, the transporter completes the section 2 information.

2. The transporter secures the signature of the designated destination facility operator upon delivery of the waste tire material. The transporter retains one copy for his files and gives the original and remaining copies to the designated destination facility operator.

3. The designated destination facility operator completes section 4 of the processor's waste tire manifest and retains a copy for his files and shall provide completed copies to the appropriate waste tire processor within 30 days of the origination date of the manifest. The processor shall submit the original manifest to the administrative authority, with the monthly report.

4. Processors, transporters, and end-market users shall certify that the information submitted in the processor manifest is true and correct to the best of his or her knowledge.

5. A processor who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated destination facility within 30 days of the date the whole waste tires and/or waste tire material was accepted by the initial transporter must contact the transporter and/or the owner/operator of the designated destination facility to determine the status of the shipment.

6. The processor must submit a written notification to the administrative authority if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

- a. a legible copy of the manifest for which the processor does not have confirmation of delivery; and
- b. a cover letter signed by the processor explaining the efforts taken to locate the shipment and the results of those efforts.

7. Upon discovering a discrepancy on the processor's waste tire manifest, the processor must attempt to reconcile the discrepancy with the transporter or designated destination facility operator. The processor must submit to the administrative authority, as part of their monthly report, electronic files containing an itemized list of generator/processor manifests, describing in detail the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved, a corrected copy is to be sent to the administrative authority.

8. Completed manifests shall be maintained by the processor, transporter, and destination facility for a minimum of five years and shall be made available for inspection and/or audit at their place of business during regular business hours.

9. All shipments of waste tires and/or waste tire material shall be accompanied by a manifest provided by the administrative authority and executed in accordance with this Section. Tire material transported into Louisiana that is ineligible shall be clearly labeled ineligible on the manifest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:91 (January 2007), LR 33:2160 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:267 (February 2016).

§10535. Fees and Fund Disbursement

A. Permit and Application Fees. Each applicant for the following permits or other authorization from the administrative authority shall submit with the application or request a non-refundable fee for the following categories in the amount specified.

1. Transporter Fees

a. The transporter authorization application fee is \$100.

b. The transporter maintenance and monitoring fee is \$25 per vehicle annually payable on or before July 31 of each year. This fee is to be paid on each truck listed on the transporter application form, or if the vehicle used to transport tires is a tractor and trailer rig, the vehicle fee must be paid for each tractor.

c. The transporter modification fee is \$25 per vehicle transfer. This fee is charged each time a vehicle is added or substituted on a transporter authorization certificate.

2. The collection center permit application fee is \$800.

3. The mobile processor annual application fee is \$600.

4. The standard processor permit application fee is \$1,250.

5. The permit modification fee is \$100.

6. The high volume end use facility application fee is \$250.

B. A waste tire fee is hereby imposed on each tire sold in Louisiana, to be collected from the purchaser by the tire dealer or motor vehicle dealer at the time of retail sale. The fee shall be \$2 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. This fee shall be collected whether or not the purchaser retains the waste tires. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

C. Waste Tire Fee Audits and Informal Resolution Procedures

1. Audits shall be undertaken to ensure waste tire generators are in compliance with all applicable regulations and that all monies owed to the waste tire management fund are efficiently, effectively, and timely collected and remitted to the fund.

2. Waste tire generators are audited for various reasons, including but not limited to, referrals resulting from department inspections and enforcement issues, waste tire program or financial services staff collection efforts, and/or research initiated and performed by the auditors based on various circumstances.

3. Upon a determination that outstanding waste tire fees are owed, the administrative authority shall mail a written demand letter and invoice to the generator. The written demand letter shall include the following:

- a. the amount of the debt owed;

b. a plan of action for recovery of the debt by the administrative authority;

c. options available to the generator for repayment of the debt; and

d. the informal procedures available to the generator by which the written demand letter, and contents of the invoice including the amount of the debt may be disputed.

4. Demand letters and invoices may be disputed by either sending a written dispute letter to the administrative authority requesting that the invoice be reevaluated, or by sending a written letter to the administrative authority requesting an informal meeting with the department to discuss the matter.

a. **Written Dispute Process.** Within 30 calendar days of the date on the written demand letter, the generator may dispute the debt by sending a letter to the administrative authority containing a concise statement, along with any supporting documentation, demonstrating why the debt is not owed. After a written dispute is received, the administrative authority will review the dispute, along with any supporting documentation submitted, and thereafter take any of the following actions:

i. reverse the amount of the debt in dispute and close the invoice;

ii. partially reduce the amount of the debt and issue a new written demand letter and invoice; or

iii. deny the dispute on grounds that insufficient information has been provided by the generator and proceed with appropriate department debt collection efforts.

b. **Informal Dispute Meeting.** Within 30 calendar days of the date on the written demand letter, the generator may dispute the debt by sending a letter to the administrative authority requesting an informal meeting to discuss the debt. Upon a determination by the administrative authority that a meeting is warranted, the administrative authority will notify the generator in writing of the date, time, and place of the informal meeting. The generator shall bring to the meeting all supporting documentation, including but not limited to, receipts, sales invoices, or any other documentation to dispute the debt. After the meeting, the administrative authority will consider the information discussed at the meeting, review all supporting documentation, if any, presented by the generator at the meeting, and thereafter take any of the following actions:

i. reverse the amount of the debt in dispute and close the invoice;

ii. partially reduce the amount of the debt and issue a new written demand letter and invoice; or

iii. deny the dispute on grounds that insufficient information was provided to dispute the debt and proceed with appropriate debt collection efforts.

D. The disposition of the fee shall be as follows.

1. The entire waste tire fee shall be forwarded to the Office of Management and Finance by the tire dealer and/or motor vehicle dealer and shall be deposited in the waste tire management fund.

2. The waste tire fee shall be designated as follows:

a. a minimum of seven and a half cents per pound of whole waste tires and/or waste tire material that is recycled or that reaches an approved end-market use will be utilized to pay permitted waste tire processors that have entered into a processor agreement with the administrative

authority, and are in compliance with all applicable requirements of these regulations;

b. a maximum of 10 percent of the waste tire fees collected may be utilized for program administration; and

c. ten percent of the waste tire fees collected may be used for the cleanup of unauthorized waste tire piles and waste tire material.

E. **Payments for Processing and Marketing Waste Tires and Waste Tire Material.** Payments made by the state of Louisiana are meant to temporarily supplement the business activities of processors and are not meant to cover all business expenses and costs associated with processing and marketing. Payments shall only be paid to standard permitted processors under written agreement with the administrative authority in accordance with LAC 33:VII.10516.

1. No payments shall be made for waste tires generated outside of the state of Louisiana.

2. No payments shall be made for used tires or for tires destined to be retreaded.

3. The payment for marketing or recycling of waste tire and/or waste tire material shall be a minimum of seven and a half cents per pound of waste tires and/or waste tire material that is recycled in accordance with a department approved end-market use. The determination that waste tires and/or waste tire material is being marketed to an end-market use shall be made by the administrative authority. This determination may be reviewed at any time. The processor shall maintain documentation demonstrating the waste tires and/or waste tire material has been recycled or has reached end-market use.

4. The payment for marketing waste tires and/or waste tire material produced by means other than shredding shall be determined on a case-by-case basis, but shall be a minimum of seven and a half cents per pound of waste tires and/or waste tire material.

5. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the administrative authority. Reporting forms will be provided by the administrative authority.

6. The amount of payments made to each processor is based on the availability of monies in the waste tire management fund.

7. All, or a portion, of a processor's payments may be retained by the administrative authority if the administrative authority has evidence that the processor is not fulfilling the terms of the processor agreement and/or the conditions of the processor's standard permit or the standards and requirements of these regulations.

8. Waste tire material that was produced prior to January 1, 1998, and for which processing payments were made are only eligible for the additional \$0.15 incentive for marketing the waste tire material when the material is marketed after December 31, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228

(December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:268 (February 2016).

§10536. Remediation of Unauthorized Tire Piles

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), repealed by the Office of the Secretary, Legal Division, LR 42:270 (February 2016).

§10537. Enforcement

A. Failure to Comply. Failure of any person to comply with any of the provisions of these regulations, the terms and conditions of any permit, other authorization, or order issued by the administrative authority, constitutes a violation of the Act. To address any violation, the administrative authority may issue any enforcement action, including penalties, bring a civil suit as appropriate, or take any other such action as may be necessary and authorized by the Act or rules promulgated by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 28:1954 (September 2002), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Division, LR 42:270 (February 2016).

§10539. Grants and Loans Applicability

A. The administrative authority may award a grant or loan to a person for any use that serves the purpose of:

1. encouraging market research and the development of products from waste tires that are marketable and provide a beneficial use; and/or

2. promoting those waste tire products that have beneficial use; and

3. assisting in solving the state's waste tire problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), amended by the Office of the Secretary, Legal Division, LR 42:270 (February 2016).

§10541. Application for a Grant or Loan

A. A person may apply for a grant or loan from the waste tire management fund by making application to the Department of Environmental Quality, Office of Management and Finance. The grant or loan application must be submitted on a form obtained from the department, which shall be available on the department's website. Along with this form, the request for a grant or loan must include information on the following non-exclusive items:

1. a detailed description of the project for which the grant or loan is requested and how the project meets the requirements of LAC 33:VII.10539;

2. the amount of the grant or loan request;

3. the projected time frame for completion of the project for which the grant or loan is requested;

4. an analysis of how the grant or loan monies will be used to encourage market research and the development of products from waste tires that are marketable and that provide a beneficial use, and/or provide for the promotion of those waste tire products that have beneficial use;

5. a detailed explanation of how the grantee will account for the use of the grant or loan funds;

6. procedures for reporting to the department on an annual basis the status of the project. The department may require additional reporting;

7. how the recipient will provide for any permits that may be necessary in order for the project to be completed, and the status of the applicant's efforts to obtain the necessary permits; and

8. any other information deemed necessary by the department.

B. Upon receipt of the grant application or loan application, the department shall review the application, may request additional information from the applicant, may deny the application, or may grant the application.

1. The denial of a grant application or loan application is a final decision of the administrative authority.

2. The granting of the application does not award funds, but allows for the applicant and the department to enter into a grant or loan agreement. The grant or loan agreement constitutes the conditions, goals, and responsibilities of the recipient and the department. The grant agreement or loan agreement, as a condition of the agreement, may require offsets for amounts due from any payments made in accordance with LAC 33:VII.10535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), amended by the Office of the Secretary, Legal Division, LR 42:270 (February 2016).

§10543. Violations

A. Failure to Comply. The grantee shall comply with all provisions of the grant agreement or loan agreement. In the event of a violation, the administrative authority may take any enforcement action authorized by the Act, including but not limited to:

1. issuance of a compliance order;

2. issuance of a notice of potential penalty and/or a penalty;

3. filing suit for recovery of the grant or loan amounts; or

4. the placing of a lien on any real property of the grantee for the amount of the grant or loan funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), amended by the Office of the Secretary, Legal Division, LR 42:270 (February 2016).

Chapter 111. Appendices

§11101. Public Notice Example—Appendix A

A. The following is an example of a public notice to be placed in the local newspaper for intention to submit a permit application to the Office of Environmental Services for existing/proposed waste tire processing facilities and collection centers.

**PUBLIC NOTICE
OF**

INTENT TO SUBMIT PERMIT APPLICATION

[NAME OF APPLICANT/FACILITY]
FACILITY [location], PARISH [location], LOUISIANA

Notice is hereby given that [name of applicant] does intend to submit to the Department of Environmental Quality, Office of Environmental Services, Waste Permits Division an application for a permit to operate a [Waste Tire Processing/Waste Tire Collection Center] in [parish name], which is approximately [identify the physical location of the site by direction and distance from the nearest town].

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
Waste Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 42:271 (February 2016).

§11103. Financial Assurance Documents—Appendix B

A. Appendix B

**Louisiana Department of Environmental Quality
Financial Assurance Documents For
Waste Tire Facilities**

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**SAMPLE DOCUMENT 1:
WASTE TIRE FACILITY
FINANCIAL GUARANTEE BOND**

Date bond was executed: [Date bond executed]
Effective date: [Effective date of bond]
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation:
Surety: [name and business address]
[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]
Total penal sum of bond: \$
Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.10525.G.15 and 16 and obtain written approval from the Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the Office of Management and Finance, Financial Services Division, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.11103.Appendix B effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate Seal]

CORPORATE SURETIES

[Name and Address]
State of incorporation:
Liability limit:
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: \$

**SAMPLE DOCUMENT 2:
WASTE TIRE FACILITY
PERFORMANCE BOND**

Date bond was executed: [date bond executed]
Effective date: [effective date of bond]
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation:
Surety: [name(s) and business address(es)]
[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]
Total penal sum of bond: \$
Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

whereas, said Principal is required, under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., to have a permit in order to own or operate the waste tire facility identified above; and

whereas, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

or, if the Principal shall provide financial assurance as specified in LAC 33:VII.10525.G.14-16 and obtain written approval of the Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the *Louisiana Administrative Code*, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.10525.G.15-16 and obtain written approval of such assurance from the Office of Management and Finance, Financial Services Division during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the standby trust as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

in witness whereof, the Principal and the Surety have executed this performance bond and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.11103.Appendix B effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate Seal]

CORPORATE SURETY

[Name and Address]
State of incorporation:
Liability limit:
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

**SAMPLE DOCUMENT 3:
WASTE TIRE FACILITY
IRREVOCABLE LETTER OF CREDIT**

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303
Attention: Office of Management and Finance,
Financial Services Division
Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number [number] in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums up to the aggregate amount of U.S. dollars \$ [number] upon presentation of:

(1) A sight draft, bearing reference to the Letter of Credit Number [number] drawn by the administrative authority together with;

(2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the standby trust.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above

expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration date, we notify both the Office of Management and Finance, Financial Services Division and the [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.11103.Appendix B effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of Issuing Institutions]
[Date]

**SAMPLE DOCUMENT 4:
WASTE TIRE TRANSPORTER
FINANCIAL GUARANTEE BOND**

Date bond was executed: [Date bond executed]
Effective date: [Effective date of bond]
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation:
Surety: [name and business address]
[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]
Total penal sum of bond: \$
Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as co-sureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required by La. R.S. 30:2418 and LAC 33:10523 to obtain authorization from the administrative authority in order to transport waste tires; and WHEREAS, the Principal is required by law to provide a surety bond to ensure proper management of waste tires in accordance with the Department of Environmental Quality's Waste Tire Regulations as a condition of the authorization;

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to properly manage waste tires in its possession as guaranteed by this bond, the

Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to transporter authorizations, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Office of Environmental Compliance, Waste Permits Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the Office of Environmental Compliance, Waste Permits Division, provided; however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.11103.Appendix B.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate Seal]

CORPORATE SURETIES

[Name and Address]
State of incorporation:
Liability limit:
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: \$

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1214 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Division, LR 42:271 (February 2016).

Herman Robinson, CPM
General Counsel

1602#019

RULE

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Peace Officer Training (LAC 22:III.4703 and 4761)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby promulgates rules and regulations relative to the training of peace officers.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4703. Basic Certification

A. - A.2.c. ...

3. Level 3 Certification for Jailer Training Officers

a. The student will complete a training course with the minimum number of training hours specified by the council and is limited to those correctional officers whose duties are the care, custody, and control of inmates. This course consists of the core correctional officer curriculum. POST firearm certification for level 3 students is not required.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002), LR 31:2008 (August 2005), LR 35:1235 (July 2009), LR 36:992 (May 2010), LR 37:1606 (June 2011), LR 42:274 (February 2016).

§4761. Advanced Training

A. Sexual Assault Awareness Training

1. On and after January 1, 2016, each full-time college or university peace officer shall complete a sexual assault awareness training program as provided by the council pursuant to R.S. 40:2405.8. The training program shall be implemented through a series of learning modules developed for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 42:274 (February 2016).

Joey Watson
Executive Director

1602#026

RULE

**Department of Health and Hospitals
Board of Practical Nurse Examiners**

Types of Licensure (LAC 46:XLVII.1703)

The Board of Practical Nurse Examiners has amended LAC 46:XLVII.1703, in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 1. Practical Nurses

Chapter 17. Licensure

§1703. Types of Licensure

A. - A.1. ...

2. be permitted to write the examination up to four times within a period of two years from the date of being made eligible;

3. re-enter and successfully complete the entire practical nursing program without advance credits if the fourth writing is unsuccessful before being allowed to take the practical nursing examination again.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 28:2355 (November 2002), LR 42:274 (February 2016).

M. Lynn Ansardi, RN
Executive Director

1602#005

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Children's Specialty Hospitals Reimbursements
(LAC 50:V.967)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.967 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

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

A. Routine Pediatric Inpatient Services. For dates of service on or after October 4, 2014, payment shall be made per a prospective per diem rate that is 81.1 percent of the routine pediatric inpatient cost per day as calculated per the "as filed" fiscal year end cost report ending during SFY 2014. The "as filed" cost report will be reviewed by the department for accuracy prior to determination of the final per diem rate.

1. Repealed.

B. Inpatient Psychiatric Services. For dates of service on or after October 4, 2014, payment shall be a prospective per diem rate that is 100 percent of the distinct part psychiatric cost per day as calculated per the as filed fiscal year end cost report ending during SFY 2014. The as filed cost report will be reviewed by the department for accuracy prior to determination of the final per diem rate.

1. Costs and per discharge/per diem limitation comparisons shall be calculated and applied separately for acute, psychiatric and each specialty service.

C. Carve-Out Specialty Services. These services are rendered by neonatal intensive care units, pediatric intensive care units, burn units and include transplants.

1. Transplants. Payment shall be the lesser of costs or the per diem limitation for each type of transplant. The base period per diem limitation amounts shall be calculated using the allowable inpatient cost per day for each type of transplant per the cost reporting period which ended in SFY 2009. The target rate shall be inflated using the update factors published by the Centers for Medicare and Medicaid (CMS) beginning with the cost reporting periods starting on or after January 1, 2010.

a. For dates of service on or after September 1, 2009, payment shall be the lesser of the allowable inpatient costs as determined by the cost report or the Medicaid days for the period for each type of transplant multiplied times the per diem limitation for the period.

2. Neonatal Intensive Care Units, Pediatric Intensive Care Units, and Burn Units. For dates of service on or after October 4, 2014, payment for neonatal intensive care units, pediatric intensive care units, and burn units shall be made per prospective per diem rates that are 84.5 percent of the cost per day for each service as calculated per the "as filed" fiscal year end cost report ending during SFY 2014. The "as filed" cost report will be reviewed by the department for accuracy prior to determination of the final per diem rate.

D. Children's specialty hospitals shall be eligible for outlier payments for dates of service on or after October 4, 2014.

1. Repealed.

E. ...

1. Repealed.

F. Effective for dates of service on or after February 3, 2010, the per diem rates as calculated per §967.C.1 above shall be reduced by 5 percent. Effective for dates of service on or after January 1, 2011, final payment shall be the lesser

of allowable inpatient acute care costs as determined by the cost report or the Medicaid days as specified per §967.C.1 for the period, multiplied by 95 percent of the target rate per diem limitation as specified per §967.C.1 for the period.

G. Effective for dates of service on or after August 1, 2010, the per diem rates as calculated per §967.C.1 above shall be reduced by 4.6 percent. Effective for dates of service on or after January 1, 2011, final payment shall be the lesser of allowable inpatient acute care costs as determined by the cost report or the Medicaid days as specified per §967.C.1 for the period, multiplied by 90.63 percent of the target rate per diem limitation as specified per §967.C.1 for the period.

H. Effective for dates of service on or after January 1, 2011, the per diem rates as calculated per §967.C.1 above shall be reduced by 2 percent. Final payment shall be the lesser of allowable inpatient acute care costs as determined by the cost report or the Medicaid days as specified per §967.C.1 for the period, multiplied by 88.82 percent of the target rate per diem limitation as specified per §967.C.1 for the period.

I. - I.3. ...

J. Effective for dates of service on or after August 1, 2012, the per diem rates as calculated per §967.C.1 above shall be reduced by 3.7 percent. Final payment shall be the lesser of allowable inpatient acute care costs as determined by the cost report or the Medicaid days as specified per §967.C.1 for the period, multiplied by 85.53 percent of the target rate per diem limitation as specified per §967.C.1 for the period.

K. Effective for dates of service on or after February 1, 2013, the per diem rates as calculated per §967.C.1 above shall be reduced by 1 percent. Final payment shall be the lesser of allowable inpatient acute care costs as determined by the cost report or the Medicaid days as specified per §967.C.1 for the period, multiplied by 84.67 percent of the target rate per diem limitation as specified per §967.C.1 for the period.

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

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

Rebekah E. Gee MD, MPH
Secretary

1602#071

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Complex Care Reimbursements
(LAC 50:VII.32915)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:VII.32915

in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32915. Complex Care Reimbursements

A. Effective for dates of service on or after October 1, 2014, non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid recipients who require such services. The add-on rate adjustment shall be a flat fee amount and may consist of payment for any one of the following components:

1. equipment only;
2. direct service worker (DSW);
3. nursing only;
4. equipment and DSW;
5. DSW and nursing;
6. nursing and equipment; or
7. DSW, nursing, and equipment.

B. Non-state owned ICFs/ID may qualify for an add-on rate for recipients meeting documented major medical or behavioral complex care criteria. This must be documented on the complex support need screening tool provided by the department. All medical documentation indicated by the screening tool form and any additional documentation requested by the department must be provided to qualify for the add-on payment.

C. In order to meet the complex care criteria, the presence of a significant medical or behavioral health need must exist and be documented. This must include:

1. endorsement of at least one qualifying condition with supporting documentation; and
2. endorsement of symptom severity in the appropriate category based on qualifying condition(s) with supporting documentation.

a. Qualifying conditions for complex care must include at least one of the following as documented on the complex support need screening tool:

- i. significant physical and nutritional needs requiring full assistance with nutrition, mobility, and activities of daily living;
- ii. complex medical needs/medically fragile; or
- iii. complex behavioral/mental health needs.

D. Enhanced Supports. Enhanced supports must be provided and verified with supporting documentation to qualify for the add-on payment. This includes:

1. endorsement and supporting documentation indicating the need for additional direct service worker resources;
2. endorsement and supporting documentation indicating the need for additional nursing resources; or
3. endorsement and supporting documentation indicating the need for enhanced equipment resources (beyond basic equipment such as wheelchairs and grab bars).

E. One of the following admission requirements must be met in order to qualify for the add-on payment:

1. the recipient has been admitted to the facility for more than 30 days with supporting documentation of necessity and provision of enhanced supports; or
2. the recipient is transitioning from another similar agency with supporting documentation of necessity and provision of enhanced supports.

F. All of the following criteria will apply for continued evaluation and payment for complex care.

1. Recipients receiving enhanced rates will be included in annual surveys to ensure continuation of supports and review of individual outcomes.
2. Fiscal analysis and reporting will be required annually.
3. The provider will be required to report on the following outcomes:
 - a. hospital admissions and diagnosis/reasons for admission;
 - b. emergency room visits and diagnosis/reasons for admission;
 - c. major injuries;
 - d. falls; and
 - e. behavioral incidents.

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 42:276 (February 2016).

Rebekah E. Gee MD, MPH
Secretary

1602#072

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

Managed Care for Physical and Basic Behavioral Health
Timely Filing of Claims
(LAC 50:I.3511)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:I.3511 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Basic Behavioral Health

Chapter 35. Managed Care Organization Participation Criteria

§3511. Prompt Pay of Claims

- A. - B.1.c. ...
2. Medicaid claims must be filed within 365 days of the date of service.

a. The provider may not submit an original claim for payment more than 365 days from the date of service, unless the claim meets one of the following exceptions:

i. the claim is for a member with retroactive Medicaid eligibility and must be filed within 180 days from linkage into an MCO;

ii. the claim is the Medicare claim and shall be submitted within 180 days of Medicare adjudication; and

iii. the claim is in compliance with a court order to carry out hearing decisions or agency corrective actions taken to resolve a dispute, or to extend the benefits of a hearing decision or corrective action.

B.3. - E.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1589 (June 2011), amended LR 41:938 (May 2015), LR 42:276 (February 2016).

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.

Rebekah E. Gee MD, MPH
Secretary

1602#073

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Medical Transportation Program
Emergency Aircraft Transportation
Rotor Winged Ambulance Services Rate Increase
(LAC 50:XXVII.353)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXVII.353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter C. Aircraft Transportation

§353. Reimbursement

A. - H. ...

I. Effective for dates of service on or after September 1, 2014, the reimbursement rates for rotor winged emergency air ambulance services, which originate in areas designated as rural and/or super rural by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, shall be increased to the following rates:

1. base rate, \$4,862.72 per unit; and
2. mileage rate, \$33.65 per unit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 42:277 (February 2016).

Rebekah E. Gee MD, MPH
Secretary

1602#074

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.Chapter 90)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.Chapter 90 as authorized by R.S. 36:254 and R.S. 40:2009. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 90. Psychiatric Residential Treatment Facilities (under 21)

Subchapter A. General Provisions

§9003. Definitions

A. ...

Cessation of Business—Repealed.

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), LR 39:2510 (September 2013), LR 42:277 (February 2016).

Subchapter B. Licensing

§9015. Licensing Surveys

A. - D. ...

E. If deficiencies have been cited during a licensing survey, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

1. civil fines;
2. directed plans of correction;
3. provisional licensure;
4. denial of renewal; and/or
5. license revocations.

F. - F.2. ...

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 38:375 (February 2012), amended LR 42:277 (February 2016).

§9017. Changes in Licensee Information or Personnel

A. - D.2. ...

3. A PRTF that is under provisional licensure, license revocation or denial of license renewal may not undergo a CHOW.

E. - F.2. ...

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 38:375 (February 2012), amended LR 42:278 (February 2016).

§9019. Cessation of Business

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective the date on which the PRTF stopped offering or providing services to the community.

C. Upon the cessation of business, the 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 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 PRTF shall:

- 1. give 30 days' advance written notice to:
 - a. HSS;
 - b. the prescribing physician; and
 - c. the parent(s) or legal guardian or legal representative of each client; and
- 2. provide for an orderly discharge and transition of all of the clients in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of clients' medical records for approval by the department. The plan shall include the following:

- 1. the effective date of the voluntary closure;
- 2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's clients' medical records;
- 3. an appointed custodian(s) who shall provide the following:
 - a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and
 - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and
- 4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If a PRTF fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a PRTF for a period of two years.

H. Once the PRTF has ceased doing business, the PRTF shall not provide services until the provider has obtained a new initial license.

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 38:375 (February 2012), amended LR 42:278 (February 2016).

§9023. Denial of License, Revocation of License, Denial of License Renewal

A. - C.3. ...

D. Revocation of License or Denial of License Renewal. A PRTF license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. - 13. ...

14. bribery, harassment, or intimidation of any resident or family member designed to cause that resident or family member to use or retain the services of any particular PRTF; or

15. failure to maintain accreditation or failure to obtain accreditation.

16. Repealed.

E. If a PRTF license is revoked or renewal is denied, or the license is surrendered in lieu of an adverse action, any owner, officer, member, director, manager, or administrator of such PRTF may be prohibited from opening, managing, directing, operating, or owning another PRTF for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. ...

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 38:376 (February 2012), amended LR 42:278 (February 2016).

§9025. Notice and Appeal of License Denial, License Revocation, License Non-Renewal, and Appeal of Provisional License

A. - B. ...

1. The PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration must be in writing and shall be forwarded to the Health Standards Section.

B.2. - D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

E.1. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

a. Repealed.

4. The provider shall request the administrative appeal within 15 days of receipt of the 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.

a. Repealed.

H. - H.1. ...

I. If a timely administrative appeal has been filed by a facility 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 shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. - 2. ...

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 38:377 (February 2012), amended LR 42:278 (February 2016).

§9027. Complaint Surveys

A. - J.1. ...

a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.

2. ...

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 38:378 (February 2012), amended LR 42:279 (February 2016).

§9029. Statement of Deficiencies

A. - C.1. ...

2. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

3. - 5. ...

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 38:379 (February 2012), amended LR 42:279 (February 2016).

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. - A.2.a.iv. ...

b. The clinical director is responsible for the following:

i. providing clinical direction for each resident at a minimum of one hour per month, either in person on-site, or via telemedicine pursuant to R.S. 37:1261-1292 et seq., and LAC 46:XLV.408 and Chapter 75 et seq.;

2.b.i.(a). - 3.a.iv. ...

b. A LMHP or MHP shall provide for each resident a minimum weekly total of 120 minutes of individual therapy.

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

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

38:397 (February 2012), amended LR 39:2511 (September 2013), LR 42:279 (February 2016).

Rebekah E. Gee MD, MPH
Secretary

1602#075

RULE

Department of Public Safety and Corrections Office of State Fire Marshal

Detention and Correctional Occupancy Inspections (LAC 55:V.1701 and 1703)

In accordance with the provisions of R.S. 49:953(B), the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of State Fire Marshal has amended the following Rule regarding the timeframe for inspections by the Office of State Fire Marshal of detention and correctional occupancies. The Rule is amended due to low staffing levels which currently prohibit the completion of semi-annual inspections.

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 17. Detention and Correctional Occupancies

§1701. Inspection of Detention and Correctional Occupancies

A. All detention and correctional occupancies in the state of Louisiana shall be inspected by the Office of the State Fire Marshal at least annually.

B. The term "detention and correctional occupancies" shall include, but shall not be limited to, detention centers, prisons, jails, penal institutions, and other facilities meeting the definition of a detention and correctional occupancy as defined by the *NFPA 101 Life Safety Code*.

C. Detention and correctional occupancies constructed on or after September 1, 1981 shall comply with the applicable provisions of the National Fire Protection Association's *Life Safety Code* (NFPA 101) for existing detention and correctional occupancies, and with the applicable provisions of the National Fire Protection Association's *Fire Code* (NFPA 1), the latest adopted editions.

D. Detention and correctional occupancies constructed prior to September 1, 1981 shall comply with the applicable provisions of the National Fire Protection Association's *Life Safety Code* (NFPA 101) for existing detention and correctional occupancies, and with the applicable provisions of the National Fire Protection Association's *Fire Code* (NFPA 1), the latest adopted editions, excluding the provisions that address the following:

1. multiple occupancies;
2. standpipe and hose systems;
3. subdivision of building spaces.

E. The minimum aisle spacing between beds in all detention and correctional occupancies shall not be less than 28 inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B) and R.S. 40:1563(B)(4).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:388 (October 1978), repromulgated LR 6:75 (February 1980), amended by the Office of the State Fire Marshal, LR 7:12 (January 1981), LR 8:485 (September 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1699 (December 1997), LR 42:279 (February 2016).

§1703. Basic Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563 and R.S. 40:1563(B)(4).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:388 (October 1978), repromulgated LR 6:75 (February 1980), amended by the Department of Public Safety, Office of the State Fire Marshal, LR 7:12 (January 1981), LR 8:485 (September 1982), repealed by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 42:280 (February 2016).

Jill P. Boudreaux
Undersecretary

1602#044

RULE

**Department of Public Safety and Corrections
Office of State Police**

**Federal Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303)**

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., has amended its rules regulating motor carrier safety and hazardous materials by updating the revision date of the adopted federal motor carrier regulations to August 10, 2015.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes 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 August 10, 2015, 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 |
| 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).

Jill P. Boudreaux
Undersecretary

1602#007

RULE

**Department of Revenue
Policy Services Division**

Administrative Fees (LAC 61:III.1701)

Under the authority of R.S. 47:1507 and R.S. 47:1511, and, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division has adopted LAC 61:III.1701, Administrative Fees, to implement the fees authorized by Act 130 of the 2015 Regular Session of the Louisiana Legislature.

Act 130 of the 2015 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:1507 to provide for fees for searching for tax returns and other documents subject to R.S. 47:1508, authenticating records, and

certifying copies of tax returns and other documents. In accordance with Act 130, this Rule establishes the fees that must be paid to the department to search for, authenticate, or certify copies of returns or any other confidential documents in its records and files.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 17. Administrative Fees

§1701. Fees for Searching for Returns and Other Documents, Authenticating and Certifying Copies of Records

A. Definitions

Authenticated Copy—a copy of any public rule, decision or order of the secretary, paper or report bearing the original signature of the secretary of the Department of Revenue to establish that the copy is an exact duplicate of such rule, decision, order, paper or report in the records and files maintained by the secretary in the administration of subtitle II of the *Louisiana Revised Statutes* of 1950, as amended.

Certified Copy—a copy of any confidential and privileged document and which is signed by the secretary, or designee, and two witnesses before a notary public certifying that the copy is a true and correct copy of the original document in the records and files maintained by the secretary in the administration and enforcement of the tax laws of this state.

Search—an examination of the records and files maintained by the secretary in the administration and enforcement of the tax laws of this state in response to a request made by a taxpayer, or their authorized representative, for a copy of any tax return previously filed by the taxpayer or any other document subject to the provisions of R.S. 47:1508.

B. Fees

1. For authenticating a copy of any public rule, decision or order of the secretary, paper or report, the fee shall be \$25.

2. For a copy of any tax return previously filed by the taxpayer or any other document subject to the provisions of R.S. 47:1508, the fee to search for the return or document shall be \$15 for each year or tax period requested, regardless of whether the requested return or document is located.

3. For a certified copy of a return or other document, the fee shall be \$25 for each return or document which is to be certified.

4. All fees shall be paid in advance by check, money order, or other authorized method of payment, made payable to the Department of Revenue. Cash cannot be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1507 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 42:281 (February 2016).

Kimberly Lewis Robinson
Secretary

1602#036

RULE

**Department of Revenue
Policy Services Division**

**Installment Agreement for Payment of Tax; Fees
(LAC 61:I.4919)**

Under the authority of R.S. 105 and R.S. 47:1576.2, and, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.4919, Installment Agreement for Payment of Tax; Fees, to provide for the payment of taxes, interest, penalties, fees and costs (“taxes due”) by installment payments.

Act 130 of the 2015 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:105 and enacted R.S. 47:1576.2 to provide for taxpayer election of installment payments for taxes due and to set mandatory fees for the establishment of standard installment agreements and reinstatement of such agreements in cases of defaults. To effect optimal collection of taxes due, improve compliance and keep viable businesses operational, the Rule provides the requirements, conditions and procedures that apply when qualified taxpayers elect to pay the taxes due in installment payments.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 49. Tax Collection

§4919. Installment Agreement for Payment of Tax

A. Time Tax Payable. The total amount of tax due on a tax return shall be paid no later than the date the return is required to be filed without regard to any extension of time for filing the return. An extension of time to file a return is not an extension of time to pay the tax due. The total amount of tax shown on the return as filed is an assessment, which is equivalent to a judgment, and shall be recorded as an assessment in the records of the secretary.

B. Installment Agreement. If a taxpayer qualifies for an installment agreement, the secretary may allow the taxpayer to pay taxes, interest, penalties, fees and costs due in installments subject, but not limited, to the following requirements or conditions.

1. The taxpayer shall pay a nonrefundable installment agreement fee in the amount of \$105, payable to the Department of Revenue, to establish an installment agreement for the payment of the tax debt. Payment of the fee is mandatory. The installment agreement fee cannot be paid in installments nor waived or applied against any tax debt. However, the secretary shall not charge the fee to enter into an installment payment agreement plan with any taxpayer whose adjusted gross income is less than or equal to \$25,000.

2. The taxpayer must be current in the filing of all returns and in the payment of all liabilities for all tax types and periods not covered in the installment agreement.

3. The taxpayer shall file returns for all tax periods in the installment agreement.

4. The taxpayer shall agree to waive all restrictions and delays on all liabilities not assessed and to timely file all returns and pay all taxes that become due after the periods included in the installment agreement.

5. The taxpayer may be required to pay a down payment of 20 percent and to make installment payments by automatic bank draft.

6. All installment agreement payments shall be applied to accounts, taxes, and periods as determined by the department.

7. Any and all future credits and overpayments of any tax shall be applied to outstanding liabilities covered by the installment agreement.

8. The taxpayer shall notify the department before selling, encumbering, alienating, or otherwise disposing of any of their real (immovable) or personal (movable) property.

9. Tax liens may be filed in any parish wherein the department has reason to believe the taxpayer owns immovable property.

10. A continuing guaranty agreement may be required on installment agreements requested by a corporation.

C. Offset of Tax Refunds and Other Payments

1. All state tax refunds issued to the taxpayer shall be applied to the tax debt until the balance is paid in full.

2. Monies received as an offset of the taxpayer's federal income tax refund shall be credited to the tax debt for the amount of the offset, less a deduction for the offset fee imposed by the Internal Revenue Service, until the balance is paid in full.

3. Other payments that the taxpayer may be entitled to receive shall be offset in accordance with applicable law.

4. Amounts of state or federal tax refunds offsets or other payments applied to the tax debt shall not reduce the amount of any installment payment due or extend the time for paying an installment payment.

D. Forms of Installment Agreements

1. Informal installment agreements shall be allowed only if the amount owed is less than \$25,000 and the payment period is 24 months or less.

2. Formal installment agreements shall be required if the amount owed is \$25,000 or more or the payment period exceeds 24 months. Information relative to the taxpayer's employment, bank account, credit, income statement, balance sheets, cash-flow data, and any other information shall be provided to the department upon request.

3. All installment agreements shall be made on forms and in the manner prescribed by the secretary.

E. Default; Reinstatement of Installment Agreement

1. If any installment payment is not paid on or before the date fixed for its payment, the total outstanding balance shall be due and payable immediately upon notice and demand from secretary. All collection actions shall be reactivated.

2. Upon request of the taxpayer and the approval of the secretary, the installment agreement may be reinstated, provided the taxpayer pays the mandatory reinstatement fee in the amount of \$60, payable to the Department of Revenue. The reinstatement fee cannot be paid in installments nor waived or applied against any tax debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 105 and R.S. 47:1576.2.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 42:281 (February 2016).

Kimberly Lewis Robinson
Secretary

1602#035

RULE

**Department of Revenue
Policy Services Division**

Issuance and Cancellation of a Lien; Fees (LAC 61:I.5302)

Under the authority of R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Act 130 of the 2015 Regular Session of the Louisiana Legislature, the Department of Revenue, Policy Services Division, has amended LAC 61:I.5302 to implement the fee and payment required to apply for compromises of judgments (offer in compromise) for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts which are equivalent to judgments.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue**

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. - C.2. ...

3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the remaining property;

4. when the amount paid to the secretary in partial satisfaction of the liability is not less than the value of the interest of the state of Louisiana in the part of the property to be released or the secretary determines that the interest of the state of Louisiana in the part to be released has no value.

D. The secretary with the approval of two assistant secretaries may compromise any judgments for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts that are equivalent to judgments, when any of the following conditions exist:

1. there is serious doubt as to the collectibility of the outstanding judgment;

2. there is serious doubt as to the taxpayer's liability for the outstanding judgment;

3. the administration and collection costs involved would exceed the amount of the outstanding liability.

E. The secretary may, upon making a record of his reasons, waive, reduce, or compromise individual income tax, penalties, interest, or other amounts.

F. Offers in Compromise

1. A taxpayer may have only one offer in compromise approved in a 10-year period. If an offer in compromise is approved, the secretary shall not consider or accept any

other application for an offer in compromise from the taxpayer until the expiration of the 10-year period.

2. Each application for an offer in compromise shall be made on a form and in the manner prescribed by the secretary. A nonrefundable application fee of \$186 payable to Louisiana Department of Revenue shall be submitted with each application. The application fee shall not be applied to the tax liability.

3. A nonrefundable initial payment of 20 percent of the amount offered must be submitted with the offer in compromise application. This payment shall be applied to the tax liability.

4. The secretary shall keep a record of all such offers in compromise which shall be open to public inspection and, notwithstanding the provisions of R.S. 47:1508 and 1508.1, shall be published in the department's annual report.

G. The department shall assess a fee against the taxpayer for the filing of a tax lien and the cancellation of a lien. The amount of the fee to be assessed against the taxpayer shall be determined according to the amount charged the department by the parish in which the lien is filed. In the event a lien is filed in more than one parish for the same taxes, each lien shall be treated separately and the total charges per parish for the liens shall be assessed against the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:347 (February 2002), amended LR 30:1045 (May 2004), LR 33:860 (May 2007), LR 42:282 (February 2016).

Kimberly Lewis Robinson
Secretary

1602#037

RULE

**Workforce Commission
Office of Workers' Compensation Administration**

Medical Treatment Guidelines
(LAC 40:I.2519, 2701, 2705, 2707,
5101, 5113, 5315, and 5399)

The Louisiana Workforce Commission has amended certain portions of the medical guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapters 25, 27, 51, and 53 regarding ICD-10 medical coding. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

**Chapter 25. Hospital Reimbursement Schedule,
Billing Instruction and Maintenance
Procedures**

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

§2519. Outlier Reimbursement and Appeals Procedures

A. Automatic Outliers. Inpatient hospital acute care services falling within certain diagnosis code ranges will be reimbursed outside the normal per diem reimbursement method. These atypical admissions will be paid at covered billed charges less a 15 percent discount. Conditions requiring acute care inpatient hospital services that are work-related and are recognized as "automatic outliers" are:

1. AIDS: ICD-10 diagnosis code B20;

2. Acute Myocardial Infarction: ICD10 diagnosis codes: I213, I214, I220, I221, I222, I228, I229; I2101, I2102, I2109, I2111, I2119, I2121, I2129; and

3. severe burns: ICD-10 diagnosis codes: T2030XA, T20311A, T20312A, T20319A, T2032XA, T2033XA, T2034XA, T2035XA, T2036XA, T2037XA, T2039XA, T2070XA, T20711A, T20712A, T20719A, T2072XA, T2073XA, T2074XA, T2075XA, T2076XA, T2077XA, T2079XA; T2130XA, T2131XA, T2132XA, T2133XA, T2134XA, T2135XA, T2136XA, T2137XA, T2139XA, T2170XA, T2171XA, T2172XA, T2173XA, T2174XA, T2175XA, T2176XA, T2177XA, T2179XA; T2230XA, T22311A, T22312A, T22319A, T22321A, T22322A, T22329A, T22331A, T22332A, T22339A, T22341A, T22342A, T22349A, T22351A, T22352A, T22359A, T22361A, T22362A, T22369A, T22391A, T22392A, T22399A, T2270XA, T22711A, T22712A, T22719A, T22721A, T22722A, T22729A, T22731A, T22732A, T22739A, T22741A, T22742A, T22749A, T22751A, T22752A, T22759A, T22761A, T22762A, T22769A, T22791A, T22792A, T22799A; T23301A, T23302A, T23309A, T23311A, T23312A, T23319A, T23321A, T23322A, T23329A, T23331A, T23332A, T23339A, T23341A, T23342A, T23349A, T23351A, T23352A, T23359A, T23361A, T23362A, T23369A, T23371A, T23372A, T23379A, T23391A, T23392A, T23399A, T23701A, T23702A, T23709A, T23711A, T23712A, T23719A, T23721A, T23722A, T23729A, T23731A, T23732A, T23739A, T23741A, T23742A, T23749A, T23751A, T23752A, T23759A, T23761A, T23762A, T23769A, T23771A, T23772A, T23779A, T23791A, T23792A, T23799A; T24301A, T24302A, T24309A, T24311A, T24312A, T24319A, T24321A, T24322A, T24329A, T24331A, T24332A, T24339A, T24391A, T24392A, T24399A, T24701A, T24702A, T24709A, T24711A, T24712A, T24719A, T24721A, T24722A, T24729A, T24731A, T24732A, T24739A, T24791A, T24792A, T24799A; T25311A, T25312A, T25319A, T25321A, T25322A, T25329A, T25331A, T25332A, T25339A, T25391A, T25392A, T25399A, T25711A, T25712A, T25719A, T25721A, T25722A, T25729A, T25731A, T25732A, T25739A, T25791A, T25792A, T25799A; T2600XA, T2601XA, T2602XA, T2610XA, T2611XA, T2612XA, T2620XA, T2621XA, T2622XA, T2630XA, T2631XA, T2632XA, T2640XA, T2641XA, T2642XA, T2650XA, T2651XA, T2652XA, T2660XA, T2661XA, T2662XA, T2670XA, T2671XA, T2672XA, T2680XA, T2681XA, T2682XA, T2690XA, T2691XA, T2692XA; T270XXA, T271XXA, T272XXA, T273XXA, T274XXA, T275XXA, T276XXA, T277XXA; T281XXA, T282XXA, T283XXA, T2840XA, T28411A, T28412A,

T28419A, T2849XA, T285XXA, T286XXA, T287XXA, T288XXA, T28911A, T28912A, T28919A, T2899XA; T300; T304; T310, T320; T3110, T3210; T3111, T3211; T3120, T3220; T3121, T3221; T3122, T3222; T3130, T3230; T3131, T3231; T3132, T3232; T3133, T3233; T3140, T3240; T3141, T3142, T3143, T3243; T3144, T3244; T3150, T3250; T3152, T3252; T3151, T3251; T3154, T3254; T3153, T3253; T3155, T3255; T3160, T3260; T3161, T3261; T3162, T3262; T3163, T3263; T3164, T3264; T3165, T3265; T3166, T3266; T3170, T3270; T3171, T3271; T3172, T3272; T3173, T3273; T3174, T3274; T3175, T3275; T3176, T3276; T3177, T3277; T3180, T3280; T3181, T3281; T3182, T3282; T3183, T3283; T3184, T3284; T3185, T3285; T3186, T3286; T3187, T3287; T3188, T3288; T3190, T3290; T3191, T3291; T3192, T3292; T3191, T3293; T3194, T3294; T3196, T3296; T3195, T3295; T3197, T3297; T3198, T3298; T3199, T3299.

B. Appeal Procedures. Special reimbursement consideration will be given to cases that are atypical in nature due to case acuity causing unusually high charges when compared to the provider's usual case mix. This appeal process applies to workers' compensation cases paid under the per diem reimbursement formula limiting the payment amount to the lesser of per diem or covered billed charges.

1. - 7.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 41:981 (May 2015), repromulgated LR 41:1774 (September 2015), LR 42:283 (February 2016).

Chapter 27. Utilization Review Procedures

§2701. Statement of Policy

A. - B.3. ...

4. Statements of charges shall be made in accordance with standard coding methodology as established by these rules, ICD-10-CM, ICD-10-PCS, HCPCS, and CPT-4 coding manuals. Unbundling or fragmenting charges, duplicating or over-itemizing coding, or engaging in any other practice for the purpose of inflating bills or reimbursement is strictly prohibited. Services must be coded and charged in the manner guaranteeing the lowest charge applicable. Knowingly and willfully misrepresenting services provided to workers' compensation claimants is strictly prohibited.

5. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 38:1030 (April 2012), LR 42:284 (February 2016).

§2705. Pre-Admission Certification

Editor's Note: The telephone number for the Office of Workers' Compensation has been changed to (225) 342-7555.

A. - B. ...

C. Louisiana Office of Worker's Compensation Administration shall support both ICD-9 and ICD-10 coding formats for a period of time after the compliance date. Claims shall be accepted with ICD-9 codes for service dates or discharge dates prior to the compliance date for pre-authorized services and/or treatment or timely filing requirements. If an authorization is requested on or before the compliance date, and the date of service is on or after October 1, 2015, healthcare professionals must submit an ICD-10 code. If an authorization is requested after the compliance date, the ICD-10 code will be required. The pre-admission certification process follows the sequence below.

1. - 1.i. ...

j. admitting diagnosis (to include ICD-10-CM codes);*

k. ...

l. major procedures and related CPT/ICD-10-PCS codes;*

m. - v. ...

*The provider will provide descriptive/narrative information and the reviewer, representing the carrier/self-insured employer, will provide the ICD-10-CM, ICD-10-PCS and/or CPT-4 codes.

D. - E.2.b. ...

3. Evaluation

a. ...

b. Carrier/Self-Insured Employer Data Reporting.

Carrier/self-insured employer will be required to collect the following data according to the Office of Workers' Compensation Administration requirements.

| Information | Positions | Type |
|--|-----------|------------------|
| ICD-10-CM | 5/7 | Numeric |
| Provider Name | 30 | Alpha |
| Provider Street Address | 30 | Alpha Numeric |
| Parish Code for Provider of Service (Use Standard FIPS code, see Exhibit 5) | 3 | Numeric |
| Place of Treatment | 1 | Alpha Numeric |
| Type of Facility* | 6 | Numeric |
| Type of Service: Medical vs. Surgical | 1 | Alpha Numeric |
| Claimant Name | 30 | Alpha |
| Claimant Social Security Number | 9 | Numeric |
| Length of Stay | 4 | Numeric |
| *See "Type Facility Codes" in Exhibit 6. | | |

c. - e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:284 (February 2016).

§2707. Admission and Continued Stay Review

Editor's Note: The telephone number for the Office of Workers' Compensation has been changed to (225) 342-7555.

A. - E.2.b. ...

3. Evaluation

a. ...

b. Carrier/Self-Insured Employer Data Reporting. Carrier/self-insured employer will be required to collect data according to the Office of Workers' Compensation Administration requirements:

| Information | Positions | Type |
|--|-----------|------------------|
| ICD-10-CM | 5/7 | Numeric |
| Provider Name | 30 | Alpha |
| Provider Street Address | 30 | Alpha Numeric |
| Parish Code for Provider of Service (Use Standard FIPS code, see Exhibit 5) | 3 | Numeric |
| Place of Treatment | 1 | Alpha Numeric |
| Type of Facility* | 6 | Numeric |

| Information | Positions | Type |
|---|-----------|------------------|
| Type of Service: Medical vs. Surgical | 1 | Alpha Numeric |
| Claimant Name | 30 | Alpha |
| Claimant Social Security Number | 9 | Numeric |
| Length of Stay | 4 | Numeric |
| * See "Type Facility Codes" in Exhibit 6. | | |

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1291.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:284 (February 2016).

§2718. Utilization Review Forms

A. LWC Form 1010—Request of Authorization/
Carrier or Self Insured Employer Response

| LWC FORM 1010 - REQUEST OF AUTHORIZATION/CARRIER OR SELF INSURED EMPLOYER RESPONSE | | | |
|---|--|---|--|
| PLEASE PRINT OR TYPE | | | |
| SECTION 1. IDENTIFYING INFORMATION - To Be Filled Out By Health Care Provider | | | |
| P A T I E N T | Last Name: First: Middle: | | Street Address, City, State, Zip: |
| | Last 4 Digits of Social Security Number: | Date of Birth: | Phone Number: Date of Injury: |
| | Employers Name: | | Street Address, City, State, Zip: Phone Number: |
| C A R R I E R | Name: | | Adjuster: Claim Number (if known): |
| | Street Address, City, State Zip: | | Email Address: Phone Number: Fax Number: |
| SECTION 2. REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider | | | |
| P R O V I D E R | Requesting Health Care Provider | | Phone Number: Fax Number: |
| | Street Address, City, State Zip: | | Email: |
| | Diagnosis: | CPT/DRG Code: | ICD/DSM Code: |
| | Requested Treatment or Testing (Attach Supplement If Needed): | | |
| | Reason for Treatment or Testing (Attach Supplement If Needed): | | |
| INFORMATION REQUIRED BY RULE TO BE INCLUDED WITH REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider (Following is the required minimum information for Request of Authorization (LAC 40:2715 (C)) | | | |
| P R O V I D E R | <input type="checkbox"/> | History provided to the level of condition and as provided by Medical Treatment Schedule | |
| | <input type="checkbox"/> | Physical Findings/Clinical Tests | |
| | <input type="checkbox"/> | Documented functional improvements from prior treatment | |
| | <input type="checkbox"/> | Test/imaging results | |
| | <input type="checkbox"/> | Treatment Plan including services being requested along with the frequency and duration | |
| | I hereby certify that this completed form and above required information was | | <input type="checkbox"/> Faxed |
| | | <input type="checkbox"/> Emailed | (day) (month) (year) |
| Signature of Health Care Provider: | | Printed Name: | |
| SECTION 3. RESPONSE OF CARRIER/SELF INSURED EMPLOYER FOR AUTHORIZATION (Check appropriate box below and return to requesting Health Care Provider, Claimant and Claimant Attorney as provided by rule) | | | |
| C A R R I E R | <input type="checkbox"/> The requested Treatment or Testing is approved | | |
| | <input type="checkbox"/> The requested Treatment or Testing is approved with modifications (Attach summary of reasons and explanation of any modifications) | | |
| | <input type="checkbox"/> The requested Treatment or Testing is denied because | | |
| | <input type="checkbox"/> | Not in accordance with Medical Treatment Schedule or R.S.23:1203.1(D) (Attach summary of reasons) | |
| | <input type="checkbox"/> | The request, or a portion thereof, is not related to the on-the-job injury | |
| | <input type="checkbox"/> | The claim is being denied as non-compensable | |
| | <input type="checkbox"/> | Other (Attach brief explanation) | |
| I hereby certify that this response of Carrier/Self Insured Employer for Authorization was | | <input type="checkbox"/> Faxed | to the Health Care Provider (and to the Attorney of Claimant if one exists, if denied or approved with modification) on this the _____ day of _____, _____ |
| | | <input type="checkbox"/> Emailed | (day) (month) (year) |
| Signature of Carrier/Self Insured Employer: | | Printed Name: | |

| | | | |
|--|---|----------------------------------|--|
| C A R R I E R | <input type="checkbox"/> The prior denied or approved with modification request is now approved | | |
| | I hereby certify that this response of Carrier/Self Insured Employer for Authorization was | <input type="checkbox"/> Faxed | to the Health Care Provider and Attorney of Claimant if one exists on this the _____ day of _____, _____ |
| | | <input type="checkbox"/> Emailed | (day) (month) (year) |
| Signature of Carrier/Self Insured Employer: | | Printed Name: | |
| SECTION 4. FIRST REQUEST (Form 1010A is required to be filled out by Carrier/Self Insured Employer and Health Care Provider) | | | |
| C A R R I E R | <input type="checkbox"/> The requested Treatment or Testing is delayed because minimum information required by rule was not provided | | |
| | I hereby certify that this First Request and accompanying Form 1010A was | <input type="checkbox"/> Faxed | to the Health Care Provider on this the _____ day of _____, _____ |
| | | <input type="checkbox"/> Emailed | (day) (month) (year) |
| Signature of Carrier/Self Insured Employer: | | Printed Name: | |
| P R O V I D E R | I hereby certify that a response to the First Request and accompanying Form 1010A was | <input type="checkbox"/> Faxed | to the Carrier/Self Insured Employer on this the _____ day of _____, _____ |
| | | <input type="checkbox"/> Emailed | (day) (month) (year) |
| | Signature of Health Care Provider: | | Printed Name: |
| SECTION 5. SUSPENSION OF PRIOR AUTHORIZATION DUE TO LACK OF INFORMATION | | | |
| Suspension of Prior Authorization Process due to Lack of Information | | | |
| C A R R I E R | <input type="checkbox"/> The requested Treatment or Testing is delayed due to a Suspension of Prior Authorization Due to Lack of Information | | |
| | I hereby certify that this Suspension of Prior Authorization was | <input type="checkbox"/> Faxed | to the Health Care Provider on this the _____ day of _____, _____ |
| | | <input type="checkbox"/> Emailed | (day) (month) (year) |
| Signature of Carrier/Self Insured Employer: | | Printed Name: | |
| P R O V I D E R | Appeal of Suspension to Medical Services Section by Health Care Provider | | |
| | I hereby certify that this form and all information previously submitted to Carrier/Self Insured Employer was faxed to OWCA Medical Services (Fax Number: 225-342-9836) this _____ day of _____, _____. | | |
| | I hereby certify that this Appeal of Suspension of Prior Authorization was | <input type="checkbox"/> Faxed | to the Carrier/Self Insured Employer on this the _____ day of _____, _____ |
| | <input type="checkbox"/> Emailed | (day) (month) (year) | |
| Signature of Health Care Provider: | | Printed Name: | |
| SECTION 6. DETERMINATION OF MEDICAL SERVICES SECTION | | | |
| O W C A | <input type="checkbox"/> The required information of LAC40:2715(C) was <i>not</i> provided | | |
| | <input type="checkbox"/> The required information of LAC40:2715(C) was provided | | |
| | I hereby certify that a written determination was | <input type="checkbox"/> Faxed | to the Health Care Provider & Carrier/Self Insured Employer on this the _____ day of _____, _____ |
| | <input type="checkbox"/> Emailed | (day) (month) (year) | |
| Signature: | | Printed Name: | |
| SECTION 7. HEALTH CARE PROVIDER RESPONSE TO MEDICAL SERVICES DETERMINATION | | | |
| P R O V I D E R | I hereby certify that additional information, pursuant to the determination of Medical Services Section, was | <input type="checkbox"/> Faxed | to the Carrier/Self Insured Employer on this the _____ day of _____, _____ |
| | | <input type="checkbox"/> Emailed | (day) (month) (year) |
| | Signature of Health Care Provider: | | Printed Name: |

B. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Workers' Compensation Administration, LR 38:1037 (April 2012), amended LR 38:3255 (December 2012), LR 42:286 (February 2016).

Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5101. Statement of Policy

A. - B.3. ...

4. Statements of charges shall be made in accordance with standard coding methodology as established by these rules, ICD-10-CM, ICD-10-PCS, HCPCS, CPT-4, CDT-1, NDAS coding manuals. Unbundling or fragmenting charges, duplicating or over-itemizing coding, or engaging in any other practice for the purpose of inflating bills or reimbursement is strictly prohibited. Services must be coded and charged in the manner guaranteeing the lowest charge applicable. Knowingly and willfully misrepresenting services provided to workers' compensation claimants is strictly prohibited.

5. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 40:375 (February 2014), LR 42:288 (February 2016).

§5113. Coding System

A. Diagnosis Coding. *The International Classification of Diseases, Tenth Revision* (ICD-10-CM) is the basis of diagnosis coding. These are the disease codes in the international classification, tenth revision, clinical modifications published by the U.S. Department of Health and Human Resources.

B. Helpful Hints for Diagnosis Coding

1. - 2. ...

3. All digits of the appropriate ICD-10-CM code(s) should be reported.

4. The date of accident should always be reported if the ICD-10-CM code is for an accident diagnosis.

5. It is important to provide a complete description of the diagnosis if an appropriate ICD-10-CM code cannot be located.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office

of Workers' Compensation Administration, LR 42:288 (February 2016).

NOTE: The following Sections are to be used for Chapter 51 only.

Chapter 53. Dental Care Services, Reimbursement Schedule and Billing Instructions

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

§5315. Coding System

A. - A.6. ...

* * *

B. CDT-1 Coding

1. - 2. ...

3. Procedures denoted "BR" (by report) in the fee schedule should be justified by the submission of a report.

4. All fees should include the price of materials supplied and the performance of the service. Under some circumstances, however, fee adjustments are necessary and values of listed codes may be modified by use of the appropriate "modifier code number." Modifiers available.

| | |
|--|---|
| 22 | Unusual Services—Report required. |
| 50 | Bilateral or Multiple Field Procedures—Multiple procedures in separate anatomical field. The following values may be used: 100 percent first major procedure. 70 percent each additional field procedure. |
| 51 | Multiple Procedures—Multiple procedure in the same anatomical field. The following values may be used: Single Field 100 percent for first major procedure 50 percent of listed value for second 25 percent of listed value for third 10 percent of listed value for fourth 5 percent of listed value for fifth BR for any procedure beyond 5 |
| 52 | Reduced Values—Reduced or estimated value for procedure because of common practice or at the dentist's election. |
| 53 | Primary Emergency Services—Procedure is carried out by a dentist who will not be providing the follow-up care. The value may be 70 percent of the listed value. |
| 54 | Surgical Procedure Only—Used to identify the dentist performing surgery. The value may be 70 percent of the listed value. |
| 55 | Follow-Up Care Only—Identifies the dentist providing follow-up care. The value may be 30 percent of the listed value. |
| 56 | Pre-Operative Care Only—Identifies the dentist performing care up until surgery when another dentist takes over. Value may be 30 percent of the listed value. |
| 75 | Services Rendered by More than One Dentist—When the condition requires more than one dentist, each dentist may be allowed 80 percent of the value for that procedure |
| 99 | Multiple Modifiers—By Report |
| The use of modifiers does not imply or guarantee that a provider will receive reimbursement as billed. Reimbursement for modified services or procedures must be based on documentation of medical necessity and must be determined on a case-by-case basis. | |

5. Fees for surgical procedures should be global in nature and include the surgery, any local anesthesia and normal follow-up care. Fees for general anesthesia are extra as are complications or additional services and should be coded separately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:1163 (September 1993), amended LR 20:1298 (November 1994), amended by the

Workforce Commission, Office of Workers' Compensation Administration, LR 40:379 (February 2014), LR 42:288 (February 2016).

§5399. Schedule for Maximum Allowances for Dental Services

| CDT Code | Description | Maximum Reimbursement |
|----------|---|-----------------------|
| D0120 | Periodic oral evaluation—established patient | 50 |
| D0140 | Limited oral evaluation—problem focused | 75 |
| D0145 | Oral evaluation—patient under 3 yrs and counseling with primary caregiver | 69 |
| D0150 | Comprehensive oral evaluation—new or established patient | 88 |
| D0160 | Detailed and Extensive oral evaluation—problem focused | 160 |
| D0170 | Re-evaluation—limited, problem focused (established patient; not post-operative visit) | 70 |
| D0180 | Comprehensive periodontal evaluation—new or established patient | 95 |
| D0210 | Intraoral—complete series (including bitewings) | 128 |
| D0220 | Intraoral—periapical first film | 28 |
| D0230 | Intraoral—periapical each additional film | 24 |
| D0240 | Intraoral—occlusal films | 42 |
| D0250 | Intraoral—first film | 67 |
| D0260 | Extraoral—first film | 55 |
| D0270 | Bitewing—single film | 28 |
| D0272 | Bitewing—two films | 45 |
| D0273 | Bitewing—three films | 55 |
| D0274 | Bitewing—four films | 65 |
| D0277 | Vertical bitewings—7 to 8 films | 97 |
| D0290 | Posterior-anterior or lateral skull and facial bone survey film | 135 |
| D0310 | Sialography | 389 |
| D0320 | Temporomandibular joint films, including injection | 592 |
| D0321 | Other temporomandibular joint films | 210 |
| D0322 | Tomographic survey | 530 |
| D0330 | Panoramic film | 110 |
| D0340 | Cephalometric film | 125 |
| D0350 | Oral/facial photographic images | 71 |
| D0360 | Cone beam CT—craniofacial data capture | 589 |
| D0362 | Cone beam CT—two-dimensional image reconstruction using existing data, includes multiple images | 359 |
| D0363 | Cone beam CT—three-dimensional image reconstruction using existing data, includes multiple images | 398 |
| D0415 | Collection of microorganisms for culture and sensitivity | 186 |
| D0416 | Viral culture | 168 |
| D0417 | Collection and preparation of saliva sample for laboratory diagnostic testing | 167 |
| D0418 | Analysis of saliva sample | 150 |
| D0421 | Genetic test for susceptibility to oral diseases | 136 |
| D0425 | Caries susceptibility tests | 95 |
| D0431 | Adjunctive pre-diagnostic test that aids in detection of mucosal abnormalities including premalignant and malignant lesions, not to include cytology or biopsy procedures | 71 |
| D0460 | Pulp vitality tests | 55 |
| D0470 | Diagnostic casts | 109 |
| D0472 | Accession of tissue, gross examination, preparation and transmission of written report | 118 |
| D0473 | Accession of tissue, gross examination and microscopic examination, preparation and transmission of written report | 165 |
| D0474 | Accession of tissue, gross examination and microscopic examination including assessment of surgical margins for presence of disease, preparation and transmission of written report | 184 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D0480 | Accession of exfoliative cytologic smears, microscopic examination, preparation and transmission of written report | 176 |
| D0486 | Accession of transepithelial cytologic sample, microscopic examination, preparation and transmission of written report | 150 |
| D0475 | Decalcification procedure | 195 |
| D0476 | Special stains for microorganisms | 289 |
| D0477 | Special stains not for microorganisms | 296 |
| D0478 | Immunohistochemical stains | 175 |
| D0479 | Tissue in-situ hybridization, including interpretation | 231 |
| D0481 | Electron microscopy—diagnostic | 188 |
| D0482 | Direct immunofluorescence | 105 |
| D0483 | Indirect immunofluorescence | 123 |
| D0484 | Consultation on slides prepared elsewhere | 168 |
| D0485 | Consultation, including preparation of slides from biopsy material supplied by referring source | 180 |
| D0502 | Other oral pathology procedures | 170 |
| D0999 | Unspecified diagnostic procedure | BR |
| D1110 | Prophylaxis—adult | 90 |
| D1120 | Prophylaxis—child | 66 |
| D1203 | Topical application of fluoride—child | 37 |
| D1204 | Topical application of fluoride—adult | 37 |
| D1206 | Topical fluoride varnish; therapeutic application for moderate to high caries risk patients | 45 |
| D1310 | Nutritional counseling for control of dental disease | 70 |
| D1320 | Tobacco counseling for the control and prevention of oral disease | 82 |
| D1330 | Oral hygiene instructions | 55 |
| D1351 | Sealant—per tooth | 54 |
| D1352 | Preventative resin restoration in a moderate to high caries risk patient—permanent tooth | BR |
| D1510 | Space maintainer—fixed—unilateral | 317 |
| D1515 | Space maintainer—fixed—bilateral | 432 |
| D1520 | Space maintainer—removable—unilateral | 390 |
| D1525 | Space maintainer—removable—bilateral | 495 |
| D1550 | Re-cementation of space maintainer | 83 |
| D1555 | Removal of fixed space maintainer | 79 |
| D2140 | Amalgam—one surface, primary or permanent | 138 |
| D2150 | Amalgam—two surfaces, primary or permanent | 176 |
| D2160 | Amalgam—three surfaces, primary or permanent | 214 |
| D2161 | Amalgam—four surfaces, primary or permanent | 251 |
| D2330 | Resin-based composite—one surface, anterior | 160 |
| D2331 | Resin-based composite—two surfaces, anterior | 200 |
| D2332 | Resin-based composite—three surfaces, anterior | 249 |
| D2335 | Resin-based composite—four or more surfaces or involving incisal angle (anterior) | 312 |
| D2390 | Resin-based composite crown—anterior | 450 |
| D2391 | Resin-based composite—one surface, posterior | 177 |
| D2392 | Resin-based composite—two surfaces, posterior | 230 |
| D2393 | Resin-based composite—three surfaces, posterior | 284 |
| D2394 | Resin-based composite—four or more surfaces posterior | 341 |
| D2410 | Gold foil—one surface | 635 |
| D2420 | Gold foil—two surfaces | 692 |
| D2430 | Gold foil—three surfaces | 806 |
| D2510 | Inlay—metallic—one surface | 833 |
| D2520 | Inlay—metallic—two surfaces | 892 |
| D2530 | Inlay—metallic—three or more surfaces | 965 |
| D2542 | Onlay—metallic—two surfaces | 990 |
| D2543 | Onlay—metallic—three surfaces | 1015 |
| D2544 | Onlay—metallic—four or more surfaces | 1050 |
| D2610 | Inlay—porcelain/ceramic—one surface | 907 |
| D2620 | Inlay—porcelain/ceramic—two surfaces | 950 |
| D2630 | Inlay—porcelain/ceramic—three or more surfaces | 995 |
| D2642 | Onlay—porcelain/ceramic—two surfaces | 1008 |
| D2643 | Onlay—porcelain/ceramic—three surfaces | 1049 |

| CDT Code | Description | Maximum Reimbursement |
|----------|---|-----------------------|
| D2644 | Onlay—porcelain/ceramic—four or more surfaces | 1094 |
| D2650 | Inlay—resin based—one surface | 869 |
| D2651 | Inlay—resin based—two surfaces | 904 |
| D2652 | Inlay—resin based—three or more surfaces | 940 |
| D2662 | Onlay—resin based—two surfaces | 944 |
| D2663 | Onlay—resin based—three surfaces | 983 |
| D2664 | Onlay—resin based—four or more surfaces | 1025 |
| D2710 | Crown—resin-based composite (indirect) | 940 |
| D2712 | Crown—3/4 resin-based composite (indirect) | 999 |
| D2720 | Crown—resin with high noble metal | 1061 |
| D2721 | Crown—resin with predominantly base metal | 998 |
| D2722 | Crown—resin with noble metal | 1015 |
| D2740 | Crown—porcelain/ceramic substrate | 1132 |
| D2750 | Crown—porcelain fused to high noble metal | 1100 |
| D2571 | Crown—porcelain fused predominantly base metal | 1029 |
| D2752 | Crown—porcelain fused to noble metal | 1050 |
| D2780 | Crown—3/4 cast high noble metal | 1063 |
| D2781 | Crown—3/4 cast predominantly base metal | 1027 |
| D2782 | Crown—3/4 cast noble metal | 1030 |
| D2783 | Crown—3/4 porcelain /ceramic | 1100 |
| D2790 | Crown—full cast high noble metal | 1100 |
| D2791 | Crown—full cast predominantly base metal | 997 |
| D2792 | Crown—full cast noble metal | 1045 |
| D2794 | Crown—titanium | 1076 |
| D2799 | Provisional crown | 437 |
| D2910 | Recement inlay, only, or partial coverage restoration | 108 |
| D2915 | Recement cast or prefabricated post and core | 114 |
| D2920 | Recement crown | 109 |
| D2930 | Prefabricated stainless steel crown—primary tooth | 271 |
| D2931 | Prefabricated stainless steel crown—permanent tooth | 325 |
| D2932 | Prefabricated resin crown | 351 |
| D2933 | Prefabricated stainless steel crown with resin window | 363 |
| D2934 | Prefabricated esthetic coated stainless steel crown—primary tooth | 372 |
| D2940 | Protective restoration | 120 |
| D2950 | Core buildup, including any pins | 271 |
| D2951 | Pin retention—per tooth, in addition to restoration | 75 |
| D2952 | Post and core in addition to crown, indirectly fabricated | 422 |
| D2953 | Each additional indirectly fabricated post—same tooth | 312 |
| D2954 | Prefabricated post and core in addition to crown | 335 |
| D2955 | Post removal (not in conjunction with endodontic therapy) | 291 |
| D2957 | Each additional prefabricated post—same tooth | 200 |
| D2960 | Labial veneer (resin laminate)—chairside | 658 |
| D2961 | Labial veneer (resin laminate)—laboratory | 975 |
| D2962 | Labial veneer (porcelain laminate)—laboratory | 1150 |
| D2970 | Temporary crown (fractured tooth) | 375 |
| D2971 | Additional procedures to construct new crown under existing partial denture framework | 169 |
| D2975 | Coping | 597 |
| D2980 | Crown repair | 293 |
| D2999 | Unspecified restorative procedure, | BR |
| D3110 | Pulp cap—direct (excluding final restoration) | 83 |
| D3120 | Pulp cap—indirect (excluding final restoration) | 84 |
| D3220 | Therapeutic pulpotomy (excluding final restoration)—removal of pulp coronal to the dentinocemental junction and application of medicament | 198 |
| D3221 | Pulpal debridement, primary and permanent teeth | 234 |
| D3222 | Partial pulpotomy for apexogenesis—permanent tooth with incomplete root development | 298 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D3230 | Pulpal therapy (resorbable filling)—anterior, primary tooth (excluding final restoration) | 275 |
| D3240 | Pulpal therapy (resorbable filling)—posterior, primary tooth (excluding final restoration) | 312 |
| D3310 | Endodontic therapy, anterior tooth (excluding final restoration) | 725 |
| D3320 | Endodontic therapy, bicuspid tooth (excluding final restoration) | 842 |
| D3330 | Endodontic therapy, molar tooth (excluding final restoration) | 1009 |
| D3331 | Treatment of root canal obstruction: non-surgical access | 611 |
| D3332 | Incomplete endodontic therapy; inoperable, unrestorable or fractured tooth | 444 |
| D3333 | Internal root repair of perforation defects | 350 |
| D3346 | Retreatment of previous root canal therapy— anterior | 850 |
| D3347 | Retreatment of previous root canal therapy— bicuspid | 970 |
| D3348 | Retreatment of previous root canal therapy— molar | 1132 |
| D3351 | Apexification/recalcification/pulpal regeneration—initial visit (apical closure/calcific repair of perforations, root resorption, pulp space disinfection, etc.) | 362 |
| D3352 | Apexification/recalcification/pulpal regeneration—interim medication replacement (apical closure/calcific repair of perforations, root resorption, pulp space disinfection, etc.) | 258 |
| D3353 | Apexification/recalcification/pulpal regeneration—final visit (includes completed root canal therapy—apical closure/calcific repair of perforations, root resorption, pulp space disinfection, etc.) | 542 |
| D3354 | Pupal regeneration—(completion of regenerative treatment in an immature permanent tooth with a necrotic pulp); does not include final restoration | BR |
| D3410 | Apicoectomy/periradicular surgery— anterior | 700 |
| D3421 | Apicoectomy/periradicular surgery— bicuspid (first root) | 780 |
| D3425 | Apicoectomy/periradicular surgery— molar (first root) | 895 |
| D3426 | Apicoectomy/periradicular surgery—(each additional root) | 400 |
| D3430 | Retrograde filling—per root | 280 |
| D3450 | Root amputation—per root | 483 |
| D3460 | Endodontic endosseous implant | 1524 |
| D3470 | Intentional reimplantation (including necessary splinting) | 796 |
| D3910 | Surgical procedure for isolation of tooth with rubber dam | 235 |
| D3920 | Hemisection (including any root removal), not including root canal therapy | 474 |
| D3950 | Canal preparation and fitting of preformed dowel or post | 258 |
| D3999 | Unspecified endodontic procedure, | BR |
| D4210 | Gingivectomy or gingivoplasty—four or more contiguous teeth or tooth bounded spaces per quadrant | 626 |
| D4211 | Gingivectomy or gingivoplasty—one to three contiguous teeth or tooth bounded spaces per quadrant | 290 |
| D4230 | Anatomical crown exposure—four or more contiguous teeth per quadrant | 698 |
| D4231 | Anatomical crown exposure—one to three contiguous teeth per quadrant | 596 |
| D4240 | Gingival flap procedure, including root planing— one to three contiguous teeth or tooth bounded spaces per quadrant | 738 |
| D4241 | Gingival flap procedure, including root planing— four or more contiguous teeth or tooth bounded spaces per quadrant | 635 |
| D4245 | Apically positioned flap | 819 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D4249 | Clinical crown lengthening—hard tissue | 751 |
| D4260 | Osseous surgery (including flap entry and closure)—four or more contiguous teeth or tooth bounded spaces per quadrant | 1074 |
| D4261 | Osseous surgery (including flap entry and closure)—one to three contiguous teeth or tooth bounded spaces per quadrant | 890 |
| D4263 | Bone replacement graft—each additional site in quadrant | 727 |
| D4264 | Bone replacement graft—first site in quadrant | 555 |
| D4265 | Biologic materials to aid in soft and osseous tissue regeneration | 550 |
| D4266 | Guided tissue regeneration—resorbable barrier, per site | 831 |
| D4267 | Guided tissue regeneration—nonresorbable barrier, per site (includes membrane removal) | 984 |
| D4268 | Surgical revision procedure, per tooth | 810 |
| D4270 | Pedical soft tissue graft procedure | 826 |
| D4271 | Free soft tissue graft procedure (including donor site surgery) | 895 |
| D4273 | Subepithelial connective tissue graft procedures, per tooth | 1088 |
| D4274 | Distal or proximal wedge procedure (when not performed in conjunction with surgical procedures in the same anatomical area) | 670 |
| D4275 | Soft tissue allograft | 969 |
| D4276 | Combined connective tissue and double pedicle graft, per tooth | 1085 |
| D4320 | Provisional splinting—intracoronal | 508 |
| D4321 | Provisional splinting—extracoronal | 466 |
| D4341 | Periodontal scaling and root planing—four or more teeth per quadrant | 251 |
| D4342 | Periodontal scaling and root planing—one to three teeth per quadrant | 185 |
| D4355 | Full mouth debridement to enable comprehensive evaluation and diagnosis | 183 |
| D4381 | Localized delivery of antimicrobial agents via a controlled release vehicle into diseased crevicular tissue, per tooth, | 140 |
| D4910 | Periodontal maintenance | 139 |
| D4920 | Unscheduled dressing change (by someone other than treating dentist) | 100 |
| D4999 | Unspecified periodontal procedure, | BR |
| D5110 | Complete denture—maxillary | 1689 |
| D5120 | Complete denture—mandibular | 1700 |
| D5130 | Immediate denture—maxillary | 1831 |
| D5140 | Immediate denture—mandibular | 1849 |
| D5211 | Maxillary partial denture—resin base (including any conventional clasps, rests and teeth) | 1350 |
| D5212 | Mandibular partial denture—resin base (including any conventional clasps, rests and teeth) | 1350 |
| D5213 | Maxillary partial denture—cast base framework with resin denture bases (including any conventional clasps, rests and teeth) | 1781 |
| D5214 | Mandibular partial denture—cast base framework with resin denture bases (including any conventional clasps, rests and teeth) | 1780 |
| D5225 | Maxillary partial denture—flexible base (including any clasps, rests and teeth) | 1566 |
| D5226 | Mandibular partial denture—flexible base (including any clasps, rests and teeth) | 1552 |
| D5281 | Removable unilateral partial denture—one piece cast metal (including clasps and teeth) | 995 |
| D5410 | Adjust complete denture—maxillary | 89 |
| D5411 | Adjust complete denture—mandibular | 88 |
| D5421 | Adjust partial denture—maxillary | 88 |
| D5422 | Adjust partial denture—mandibular | 88 |
| D5510 | Repair broken complete denture base | 208 |
| D5520 | Replace missing or broken teeth—complete denture (each tooth) | 186 |
| D5610 | Repair resin denture base | 202 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D5620 | Repair cast framework | 291 |
| D5630 | Repair or replace broken clasp | 262 |
| D5640 | Replace broken teeth—per tooth | 184 |
| D5650 | Add tooth to existing partial denture | 224 |
| D5660 | Add clasp to existing partial denture | 268 |
| D5670 | Replace all teeth and acrylic on cast metal framework (maxillary) | 735 |
| D5671 | Replace all teeth and acrylic on cast metal framework (mandibular) | 750 |
| D5710 | Rebase complete maxillary denture | 591 |
| D5711 | Rebase complete mandibular denture | 585 |
| D5720 | Rebase maxillary partial denture | 563 |
| D5721 | Rebase mandibular partial denture | 562 |
| D5730 | Reline complete maxillary denture (chairside) | 372 |
| D5731 | Reline complete mandibular denture (chairside) | 369 |
| D5740 | Reline maxillary partial denture (chairside) | 364 |
| D5741 | Reline mandibular partial denture (chairside) | 368 |
| D5750 | Reline complete maxillary denture (laboratory) | 475 |
| D5751 | Reline complete mandibular denture (laboratory) | 475 |
| D5760 | Reline maxillary partial denture (laboratory) | 469 |
| D5761 | Reline mandibular partial denture (laboratory) | 472 |
| D5810 | Interim complete denture (maxillary) | 848 |
| D5811 | Interim complete denture (mandibular) | 853 |
| D5820 | Interim partial denture (maxillary) | 690 |
| D5821 | Interim partial denture (mandibular) | 690 |
| D5850 | Tissue conditioning, maxillary | 204 |
| D5851 | Tissue conditioning, mandibular | 205 |
| D5860 | Overdenture—complete | 2121 |
| D5861 | Overdenture—partial | 2048 |
| D5862 | Precision attachment | 700 |
| D5867 | Replacement of replaceable part of semi-precision or precision attachment (male or female component) | 385 |
| D5875 | Modification of removable prosthesis following implant surgery | 393 |
| D5899 | Unspecified removable prosthodontic procedure | BR |
| D5911 | Facial moulage (sectional) | BR |
| D5912 | Facial moulage (complete) | BR |
| D5913 | Nasal prosthesis | BR |
| D5914 | Auricular prosthesis | BR |
| D5915 | Orbital prosthesis | BR |
| D5916 | Ocular prosthesis | BR |
| D5919 | Facial prosthesis | BR |
| D5923 | Ocular prosthesis, interim | BR |
| D5924 | Cranial prosthesis | BR |
| D5925 | Facial augmentation implant prosthesis | BR |
| D5926 | Nasal prosthesis, replacement | BR |
| D5957 | Auricular prosthesis, replacement | BR |
| D5958 | Orbital prosthesis, replacement | BR |
| D5929 | Facial prosthesis, replacement | BR |
| D5931 | Obturator prosthesis, surgical | BR |
| D5932 | Obturator prosthesis, definitive | BR |
| D5933 | Obturator prosthesis, modification | BR |
| D5934 | Mandibular resection prosthesis with guide flange | BR |
| D5935 | Mandibular resection prosthesis without guide flange | BR |
| D5936 | Obturator prosthesis interim | BR |
| D5937 | Trismus appliance (not for TMD treatment) | 746 |
| D5951 | Feeding aid | 844 |
| D5952 | Speech aid prosthesis, pediatric | BR |
| D5953 | Speech aid prosthesis, adult | BR |
| D5954 | Palatal augmentation prosthesis | BR |
| D5955 | Palatal lift prosthesis, definitive | BR |
| D5958 | Palatal lift prosthesis, interim | BR |
| D5959 | Palatal lift prosthesis, modification | BR |
| D5960 | Speech aid prosthesis modification | BR |
| D5982 | Surgical stent | 450 |
| D5983 | Radiation carrier | BR |
| D5984 | Radiation shield | BR |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D5985 | Radiation cone locator | BR |
| D5986 | Fluoride gel carrier | 210 |
| D5987 | Commissure splint | BR |
| D5988 | Surgical splint | 770 |
| D5991 | Topical medicament carrier | 226 |
| D5992 | Adjust maxillofacial prosthetic appliance | BR |
| D5993 | Maintenance and cleaning of maxillofacial prosthesis (extra or intraoral) other than required adjustments | BR |
| D5999 | Unspecified maxillofacial prosthesis | BR |
| D6190 | Radiographic/surgical implant index | 375 |
| D6010 | Surgical placement of implant body: endosteal implant | 2001 |
| D6012 | Surgical placement of interim implant body for transitional prosthesis: endosteal implant | 1577 |
| D6040 | Surgical placement: eposteal implant | 8380 |
| D6050 | Surgical placement: transosteal implant | 5807 |
| D6100 | Implant removal | 760 |
| D6055 | Connecting bar—implant supported abutment support | 2900 |
| D6506 | Prefabricated abutment—includes placement | 789 |
| D6057 | Custom abutment—includes placement | 952 |
| D6053 | Implant/abutment supported removable denture for completely edentulous arch | 2790 |
| D6054 | Implant/abutment supported removable denture for partially edentulous arch | 2751 |
| D6078 | Implant/abutment supported fixed denture for completely edentulous arch | 5335 |
| D6079 | Implant/abutment supported fixed denture for partially edentulous arch | 3800 |
| D6058 | Abutment supported porcelain/ceramic crown | 1479 |
| D6059 | Abutment supported porcelain/ceramic crown (high noble metal) | 1479 |
| D6060 | Abutment supported porcelain fused to metal crown (predominately base metal) | 1361 |
| D6061 | Abutment supported porcelain fused to metal crown (noble metal) | 1382 |
| D6062 | Abutment supported cast metal crown (high noble metal) | 1432 |
| D6063 | Abutment supported cast metal crown (predominantly base metal) | 1317 |
| D6064 | Abutment supported cast metal crown (noble metal) | 1366 |
| D6094 | Abutment supported crown—(titanium) | 1376 |
| D6065 | Implant supported porcelain/ceramic crown | 1543 |
| D6066 | Implant supported porcelain fused to metal crown (titanium, titanium alloy, high noble metal) | 1545 |
| D6067 | Implant supported metal crown (titanium, titanium alloy, high noble metal) | 1575 |
| D6068 | Abutment supported retainer for porcelain/ceramic FPD | 1469 |
| D6069 | Abutment supported retainer for porcelain fused to metal FPD (high noble metal) | 1474 |
| D6070 | Abutment supported retainer for porcelain fused to metal FPD (predominantly base metal) | 1384 |
| D6071 | Abutment supported retainer for porcelain fused to metal FPD (noble metal) | 1384 |
| D6072 | Abutment supported retainer for cast metal FPD (high noble metal) | 1451 |
| D6073 | Abutment supported retainer for porcelain cast metal FPD (predominantly base metal) | 1384 |
| D6074 | Abutment supported retainer for cast metal FPD (noble metal) | 1384 |
| D6194 | Abutment supported retainer crown for FPD (titanium) | 1392 |
| D6075 | Implant supported retainer for ceramic FPD | 1529 |
| D6076 | Implant supported retainer for porcelain fused to metal FPD (titanium, titanium alloy or high noble metal) | 1538 |
| D6077 | Implant supported retainer for cast metal FPD (titanium, titanium alloy or high noble metal) | 1587 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D6080 | Implant maintenance procedures, including removal of prosthesis, cleansing of prosthesis and abutments and reinsertion of prosthesis | 297 |
| D6090 | Repair implant supported prosthesis | 742 |
| D6095 | Repair implant abutment | 731 |
| D6091 | Replacement of semi-precious or precision attachment (male or female component) of implant/abutment supported prosthesis, per attachment | 631 |
| D6092 | Recent implant/abutment supported crown | 160 |
| D6093 | Recent implant/abutment supported fixed partial denture | 182 |
| D6199 | Unspecified implant procedure | BR |
| D6205 | Pontic—indirect resin based composite | 988 |
| D6210 | Pontic—cast high noble metal | 1089 |
| D6211 | Pontic—cast predominately base metal | 998 |
| D6212 | Pontic—cast noble metal | 1041 |
| D6214 | Pontic—titanium | 1100 |
| D6240 | Pontic—porcelain fused to high noble metal | 1100 |
| D6241 | Pontic—porcelain fused to predominantly base metal | 1024 |
| D6242 | Pontic—porcelain fused to noble metal | 1051 |
| D6245 | Pontic—porcelain/ceramic | 1140 |
| D6250 | Pontic—resin with high noble metal | 1058 |
| D6251 | Pontic—resin with predominantly base metal | 1049 |
| D6252 | Pontic—resin with noble metal | 1040 |
| D6253 | Provisional pontic | 769 |
| D6254 | Interim pontic | BR |
| D6545 | Retainer—cast metal for resin bonded fixed prosthesis | 852 |
| D6548 | Retainer—porcelain/ceramic for resin bonded fixed prosthesis | 950 |
| D6600 | Inlay—porcelain/ceramic, two surfaces | 1000 |
| D6601 | Inlay—porcelain/ceramic, three or more surfaces | 1052 |
| D6602 | Inlay—cast high noble metal, two surfaces | 1015 |
| D6603 | Inlay—cast high noble metal, three or more surfaces | 1050 |
| D6604 | Inlay—predominantly base metal, two surfaces | 994 |
| D6605 | Inlay—predominantly base metal, three or more surfaces | 1046 |
| D6606 | Inlay—cast noble metal, two surfaces | 998 |
| D6607 | Inlay—cast noble metal, three or more surfaces | 1050 |
| D6624 | Inlay—titanium | 1080 |
| D6608 | Onlay—porcelain/ceramic, two surfaces | 1061 |
| D6609 | Onlay—porcelain/ceramic, three or more surfaces | 1127 |
| D6610 | Onlay—cast high noble metal, two surfaces | 1074 |
| D6611 | Onlay—cast high noble metal, three or more surfaces | 1111 |
| D6612 | Onlay—predominantly base metal, two surfaces | 1038 |
| D6613 | Onlay—predominantly base metal, three or more surfaces | 1095 |
| D6614 | Onlay—cast noble metal, two surfaces | 1050 |
| D6615 | Onlay—cast noble metal, three or more surfaces | 1102 |
| D6634 | Onlay—titanium | 1125 |
| D6710 | Crown—indirect resin based composite | 1025 |
| D6720 | Crown—resin with high noble metal | 1056 |
| D6721 | Crown—resin with predominantly base metal | 1032 |
| D6722 | Crown—resin with noble metal | 1050 |
| D6740 | Crown—porcelain/ceramic | 1146 |
| D6750 | Crown—porcelain fused to high noble metal | 1107 |
| D6751 | Crown—porcelain fused to predominantly base metal | 1010 |
| D6752 | Crown—porcelain fused to noble metal | 1050 |
| D6780 | Crown—3/4 cast high noble metal | 1075 |
| D6781 | Crown—3/4 cast predominantly base metal | 1038 |
| D6782 | Crown—3/4 cast noble metal | 1050 |
| D6783 | Crown—3/4 porcelain/ceramic | 1100 |
| D6790 | Crown—full cast high noble metal | 1085 |
| D6791 | Crown—full cast predominantly base metal | 997 |
| D6792 | Crown—full cast noble metal | 1040 |

| CDT Code | Description | Maximum Reimbursement |
|----------|---|-----------------------|
| D6794 | Crown—titanium | 1059 |
| D6793 | Provisional retainer crown | 523 |
| D6795 | Interim retainer crown | BR |
| D6920 | Connector bar | 995 |
| D6930 | Recent fixed partial denture | 171 |
| D6940 | Stress breaker | 435 |
| D6950 | Precision attachment | 650 |
| D6970 | Post and core in addition to fixed partial denture retainer, indirectly fabricated | 433 |
| D6972 | Prefabricated post and core in addition to fixed partial denture retainer | 344 |
| D6973 | Core build up for retainer, including any pins | 275 |
| D6975 | Coping—metal | 700 |
| D6976 | Each additional indirectly fabricated post—same tooth | 290 |
| D6977 | Each additional prefabricated post—same tooth | 204 |
| D6980 | Fixed partial denture repair | 387 |
| D6985 | Pediatric partial denture, fixed | 915 |
| D6999 | Unspecified fixed prosthodontic procedure | BR |
| D7111 | Extraction, coronal remnants—deciduous tooth | 135 |
| D7140 | Extraction, erupted tooth or exposed root (elevation and/or forceps removal) | 174 |
| D7210 | Surgical removal of erupted tooth requiring removal of bone and/or sectioning of tooth, and including elevation of mucoperiosteal flap if indicated | 275 |
| D7220 | Removal of impacted tooth—soft tissue | 315 |
| D7230 | Removal of impacted tooth—partially bony | 395 |
| D7240 | Removal of impacted tooth—completely bony | 484 |
| D7241 | Removal of impacted tooth—completely bony, with unusual surgical complications | 576 |
| D7250 | Surgical removal of residual tooth roots (cutting procedure) | 304 |
| D7251 | Coronectomy—intentional partial tooth removal | BR |
| D7260 | Oroantral fistula closure | 1026 |
| D7261 | Primary closure of a sinus perforation | 757 |
| D7270 | Tooth reimplantation and/or stabilization of accidentally evulsed or displaced tooth | 561 |
| D7272 | Tooth transplantation (includes reimplantation from one site to another and splinting and/or stabilization) | 746 |
| D7280 | Surgical access of an unerupted tooth | 482 |
| D7282 | Mobilization of erupted or malpositioned tooth to aid eruption | 526 |
| D7283 | Placement of device to facilitate eruption of impacted tooth | 523 |
| D7285 | Biopsy of oral tissue—hard (bone, tooth) | 437 |
| D7286 | Biopsy of oral tissue—soft | 320 |
| D7287 | Exfoliative cytological sample collection | 184 |
| D7288 | Brush biopsy—transepithelial sample collection | 195 |
| D7290 | Surgical repositioning of teeth | 528 |
| D7291 | Transseptal fiberotomy/surpa crestal fibertotomy | 315 |
| D7292 | Surgical placement: temporary anchorage device [screw retained plate] requiring surgical flap | 3300 |
| D7293 | Surgical placement: temporary anchorage device requiring surgical flap | 2528 |
| D7294 | Surgical placement: temporary anchorage device without surgical flap | 1619 |
| D7295 | Harvest of bone for use in autogenous grafting procedure | BR |
| D7310 | Alveoplasty in conjunction with extractions—four or more teeth or tooth spaces, per quadrant | 295 |
| D7311 | Alveoplasty in conjunction with extractions—one to three teeth or tooth spaces, per quadrant | 309 |
| D7320 | Alveoplasty not in conjunction with extractions—four or more teeth or tooth spaces, per quadrant | 443 |
| D7321 | Alveoplasty not in conjunction with extractions—one to three teeth or tooth spaces, per quadrant | 437 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D7340 | Vestibuloplasty—ridge extension (secondary epithelialization) | 1164 |
| D7350 | Vestibuloplasty—ridge extension (including soft tissue graft, muscle reattachment, revision of soft tissue attachment and management of hypertrophied and hyperplastic tissue) | 2467 |
| D7410 | Excision of benign lesion up to 1.25 cm | 415 |
| D7411 | Excision of benign lesion greater than 1.25 cm | 630 |
| D7412 | Excision of benign lesion, complicated | 850 |
| D7413 | Excision of malignant lesion greater than 1.25 cm | 751 |
| D7414 | Excision of malignant lesion up to 1.25 cm | 1132 |
| D7415 | Excision of malignant lesion, complicated | 1253 |
| D7465 | Destruction of lesion(s) by physical or chemical method | 459 |
| D7440 | Excision of malignant tumor—lesion diameter up to 1.25 cm | 720 |
| D7441 | Excision of malignant tumor—lesion greater than 1.25 cm | 1224 |
| D7450 | Removal of benign odontogenic cyst or tumor—lesion diameter up to 1.25 cm | 588 |
| D7451 | Removal of benign odontogenic cyst or tumor—lesion diameter greater than 1.25 cm | 782 |
| D7460 | Removal of benign nonodontogenic cyst or tumor—lesion diameter greater than 1.25 cm | 573 |
| D7461 | Removal of benign nonodontogenic cyst or tumor—lesion diameter up to 1.25 cm | 874 |
| D7470 | Removal of lateral exostosis (maxilla or mandible) | 653 |
| D7472 | Removal of torus palatinus | 859 |
| D7473 | Removal of torus mandibularis | 761 |
| D7485 | Surgical reduction of osseous tuberosity | 755 |
| D7490 | Radial resection of maxilla or mandible | 8006 |
| D7510 | Incision and drainage of abscess—intraoral soft tissue | 236 |
| D7511 | Incision and drainage of abscess—intraoral soft tissue—complicated (includes drainage of multiple fascial spaces) | 367 |
| D7520 | Incision and drainage of abscess—extraoral tissue | 169 |
| D7521 | Incision and drainage of abscess—extraoral tissue—complicated (includes drainage of multiple fascial spaces) | 630 |
| D7530 | Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue | 364 |
| D7540 | Removal of reaction producing foreign bodies, musculoskeletal system | 708 |
| D7550 | Partial osteotomy/osteostomy for removal of non-vital bone | 600 |
| D7560 | Maxillary sinusotomy for removal of tooth fragment or foreign body | 1308 |
| D7610 | Maxilla—open reduction (teeth immobilized, if present) | 4464 |
| D7620 | Maxilla—closed reduction (teeth immobilized, if present) | 3450 |
| D7630 | Mandible—open reduction (teeth immobilized, if present) | 4576 |
| D7640 | Mandible—closed reduction (teeth immobilized, if present) | 3483 |
| D7650 | Malar and/or zygomatic arch—open reduction | 3924 |
| D7660 | Malar and/or zygomatic arch—closed reduction | 3277 |
| D7670 | Alveolus closed reduction may include stabilization of teeth | 1746 |
| D7671 | Alveolus open reduction may include stabilization of teeth | 1298 |
| D7680 | Facial bones—complicated reduction with fixation and multiple surgical approaches | 6555 |
| D7710 | Maxilla open reduction | 4568 |
| D7720 | Maxilla—closed reduction | 3462 |
| D7730 | Mandible—open reduction | 4826 |
| D7740 | Mandible—closed reduction | 3636 |
| D7750 | Malar and/or zygomatic arch—open reduction | 4230 |
| D7760 | Malar and/or zygomatic arch—closed reduction | 6044 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D7770 | Alveolus open reduction stabilization of teeth | 2794 |
| D7771 | Alveolus closed reduction stabilization of teeth | 1958 |
| D7780 | Facial bones—complicated reduction with fixation and multiple surgical approaches | 8587 |
| D7810 | Open reduction of dislocation | 4271 |
| D7820 | Closed reduction of dislocation | 644 |
| D7830 | Manipulation under anesthesia | 990 |
| D7840 | Condylectomy | 5466 |
| D7850 | Surgical discectomy, with/without implant | 5356 |
| D7852 | Disc repair | 5541 |
| D7854 | Synovectomy | 5278 |
| D7856 | Myotomy | 3505 |
| D7858 | Joint reconstruction | BR |
| D7860 | Arthrotomy | BR |
| D7865 | Arthroplasty | BR |
| D7870 | Arthrocentesis | 562 |
| D7871 | Non-arthroscopic lysis and lavage | BR |
| D7872 | Arthroscopy—diagnosis, with or without biopsy | BR |
| D7873 | Arthroscopy—surgical: lavage and lysis of adhesions | BR |
| D7874 | Arthroscopy—surgical: disc repositioning and stabilization | BR |
| D7875 | Arthroscopy—surgical: synovectomy | BR |
| D7876 | Arthroscopy—surgical: discectomy | BR |
| D7877 | Arthroscopy—surgical: debridement | BR |
| D7880 | Occlusal orthotic device | 990 |
| D7899 | Unspecified TMD therapy | BR |
| D7910 | Suture of recent small wounds up to 5 cm | 300 |
| D7911 | Complicated suture—up to 5 cm | 486 |
| D7912 | Complicated suture—greater than 5 cm | 792 |
| D7920 | Skin graft (identify defect covered, location and type of graft) | 2677 |
| D7940 | Osteoplasty—for orthognathic deformaties | 4123 |
| D7941 | Osteotomy—mandibular rami | 9139 |
| D7943 | Osteotomy—mandibular rami with bone graft; includes obtaining the graft | 8623 |
| D9744 | Osteotomy—segmented or subapical | 7006 |
| D7945 | Osteotomy—body of mandible | 6983 |
| D7946 | LeFort I (maxilla—total) | 8251 |
| D7947 | LeFort I (maxilla—segmented) | 8393 |
| D7948 | LeFort II or LeFort III (osteoplasty of facial bones for midface hypoplasia or retrusion)—without bone graft | 9586 |
| D7949 | LeFort II of LeFort III—with bone graft | 11832 |
| D7950 | Osseous, osteoperiosteal or cartilage graft of the mandible or maxilla—autogenous or nonautogenous | 3116 |
| D7951 | Sinus augmentation with bone or bone substitutes | 3200 |
| D7953 | Bone replacement graft for ridge preservation—per site | 800 |
| D7955 | Repair of maxillofacial soft and/or hard tissue defect | 3807 |
| D7960 | Frenulectomy—also known as frenectomy or frenotomy—separate procedure not incidental to another procedure | 450 |
| D7936 | Frenuloplasty | 499 |
| D7970 | Excision of hyperplastic tissue—per arch | 517 |
| D7971 | Excision of pericoronal gingiva | 258 |
| D7972 | Surgical reduction of fibrous tuberosity | 796 |
| D7980 | Sialolithotomy | 843 |
| D7981 | Excision of salivary gland | BR |
| D7982 | Sialodochoplasty | 1749 |
| D7983 | Closure of salivary fistula | 1528 |
| D7990 | Emergency tracheotomy | 1482 |
| D7991 | Coronoidectomy | 4056 |
| D7995 | Synthetic graft—mandible or facial bones | BR |
| D7996 | Implant-mandible for augmentation purposes (excluding alveolar ridge) | BR |
| D7997 | Appliance removal (not by dentist who place appliance), includes removal of archbar | 350 |

| CDT Code | Description | Maximum Reimbursement |
|----------|--|-----------------------|
| D7998 | Intraoral placement of a fixation device not in conjunction with a fracture | 2572 |
| D7999 | Unspecified oral surgery procedure | BR |
| D8010 | Limited orthodontic treatment of the primary dentition | 2149 |
| D8020 | Limited orthodontic treatment of the transitional dentition | 2459 |
| D8030 | Limited orthodontic treatment of the adolescent dentition | 2901 |
| D8040 | Limited orthodontic treatment of the adult dentition | 3237 |
| D8050 | Interceptive orthodontic treatment of the primary dentition | 2590 |
| D8060 | Interceptive orthodontic treatment of the transitional dentition | 2796 |
| D8070 | Comprehensive orthodontic treatment of the transitional dentition | 5200 |
| D8080 | Comprehensive orthodontic treatment of the adolescent dentition | 5250 |
| D8090 | Comprehensive orthodontic treatment of the adult dentition | 5308 |
| D8210 | Removable appliance therapy | 861 |
| D8220 | Fixed appliance therapy | 968 |
| D8660 | Pre-orthodontic treatment visit | 384 |
| D8670 | Periodic orthodontic treatment visit (as part of contract) | 263 |
| D8680 | Orthodontic retention (removal of appliances, construction and placement of retainers(s)) | 532 |
| D8690 | Orthodontic treatment (alternative billing to a contract fee) | 283 |
| D8691 | Repair of orthodontic appliance | 210 |
| D8692 | Replacement of lost or broken retainer | 330 |
| D8693 | Rebonding or recementing; and/or repair as require, of fixed retainers | 356 |
| D8999 | Unspecified orthodontic procedure, | BR |
| D9110 | Palliative (emergency) treatment of dental pain—minor procedure | 126 |
| D9120 | Fixed partial denture sectioning | 250 |
| D9210 | Local anesthesia not in conjunction with operative or surgical procedures | 74 |
| D9211 | Regional block anesthesia | 96 |
| D9212 | Trigeminal division block anesthesia | 272 |
| D9215 | Local anesthesia in conjunction with operative or surgical procedures | 65 |
| D9220 | Deep sedation/general anesthesia—first 30 minutes | 392 |
| D9221 | Deep sedation/general anesthesia—each additional 15 minutes | 174 |
| D9230 | Inhalation of nitrous oxide/anoxiolysis analgesia | 79 |
| D9241 | Intravenous conscious sedation/analgesia—first 30 minutes | 416 |
| D9242 | Intravenous conscious sedation/analgesia—each additional 15 minutes | 169 |
| D9248 | Non-intravenous conscious sedation | 325 |
| D9310 | Consultation—diagnostic services provided by dentist or physician other than requesting dentist or physician | 129 |
| D9410 | House/extended care facility call | 246 |
| D9420 | Hospital or ambulatory surgery center call | 299 |
| D9430 | Office visit for observation (during regularly scheduled hours)—no other services performed | 76 |
| D9440 | Office visit after regularly scheduled hours | 179 |
| D9450 | Case presentation, detailed and extensive treatment planning | 145 |
| D9610 | Therapeutic parental drug, single administration | 111 |
| D9612 | Therapeutic parental drug, two or more administrations, different medications | 193 |
| D9630 | Other drugs and/or medicaments | 49 |
| D9910 | Application of desensitizing medicament | 63 |
| D9911 | Application of desensitizing resin for cervical and/or root surface, per tooth | 79 |

| CDT Code | Description | Maximum Reimbursement |
|-----------------|--|------------------------------|
| D9920 | Behavior management | 160 |
| D9930 | Treatment of complications (post-surgical)—unusual circumstances | 132 |
| D9940 | Occlusal guard, | 600 |
| D9941 | Fabrication of athletic mouthguard | 254 |
| D9942 | Repair and/or relines of occlusal guard | 250 |
| D9950 | Occlusion analysis—mounted case | 344 |
| D9951 | Occlusal adjustment—limited | 182 |
| D9952 | Occlusal adjustment—complete | 687 |
| D9970 | Enamel microabrasion | 202 |
| D9971 | Odontoplasty 1-2 teeth; includes removal of enamel projections | 176 |
| D9972 | External bleaching—per arch | 328 |
| D9973 | External bleaching—per tooth | 231 |
| D9974 | Internal bleaching—per tooth | 291 |
| D9999 | Unspecified adjunctive procedure | BR |

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:1167 (September 1993), amended LR 20:1298 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 39:2043 (July 2013), LR 40:379 (February 2014), LR 42:289 (February 2016).

Curt Eysink
Executive Director

1602#057

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Horticulture and Quarantine Programs—Xyloporosis (LAC 7:XV.127)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (“department”) intends to adopt the rule set forth below, differentiating between two strains of xyloporosis in citrus nursery stock. The proposed Rule was first established by Emergency Rule (*Louisiana Register*, Volume 42, Number 1).

The proposed Rule is necessary because new information has been found about the disease xyloporosis. Xyloporosis is synonymous with the names cachexia and hop stunt viroid. These three names were all named for the same disease but, at different times in the last 80 years. As technology became more advanced, PCR testing showed that all three diseases were actually the same disease. The name cachexia is the name that is most commonly used today. In addition, there are two strains of cachexia. One strain infects citrus but is symptomless and it is called non-cachexia variant. The other strain also infects citrus which causes the disease cachexia (or xyloporosis). That strain is called cachexia virulent. The current regulations restrict movement of citrus nursery stock unless it is found free of xyloporosis (along with CTV, psorosis, and exocortis) but, it does not specify between non-cachexia and cachexia. The proposed regulation differentiates between the two strains of xyloporosis.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§127. Citrus Nursery Stock, Scions and Budwood

A. - B. ...

C. Citrus nursery stock, scions and/or budwood may move into Louisiana from areas in which tristeza is known to occur, provided it has been grown under a citrus budwood registration program against tristeza, xyloporosis, psorosis and exocortis, and provided that under this registration program the following are required.

1. - 2. ...

3. The nursery stock, scions and/or budwood is from parent stock that has been indexed and found free of psorosis and the cachexia virulent strain of xyloporosis.

C.4. - F.6.i.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:

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 Ansel Rankins, Director of the Horticulture and Quarantine Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on the April 7, 2016. No preamble is available.

Mike Strain DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Horticulture and Quarantine
Programs—Xyloporosis**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will not result in any costs or savings to state or local governmental units.

The proposed amendment to LAC 7:XV.127(C)(3) allows for the import of citrus nursery stock, scions, and/or budwoods that contain the non-virulent, non-cachexia strain of xyloporosis, which does not pose a hazard to other citrus stock.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed rule will not have an effect on revenue collections for state or local governmental units

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The regulation change will allow citrus growers to import more citrus nursery trees from outside the state of Louisiana. The economic benefits to the nursery industry should increase as the regulation will allow for more trees to be imported into the state increasing the supply and selection of citrus trees

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Implementation of the proposed rule will not have any effect on competition or employment in the public or private sector.

Dane Morgan
Assistant Commissioner
1602#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences**

**Unmanned Aerial Systems
(LAC 7:XLIX.Chapter 1)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority granted by R.S. 3:42-47, notice is hereby given that the Department of Agriculture and Forestry (“department”), through the Office of Agricultural and Environmental Sciences, intends to adopt LAC 7:XLIX.101-117 in order to establish regulations for the use of unmanned aerial systems in agricultural commercial operations. The proposed regulations set forth the process for registration of an unmanned aerial system and for operator licensure. The proposed regulations also mandate an educational and safety training course, and set forth the general operating rules for be followed when operating an unmanned aerial system for agricultural commercial operation.

Title 7

AGRICULTURE AND ANIMALS

Part XLIX. Unmanned Aerial Systems

Chapter 1. Unmanned Aerial Systems

§101. Definitions

A. The definitions in R.S. 3:42 are applicable to this Part and have the meaning given to them in that statute, except where a regulation or the context clearly indicates otherwise.

B. The following terms are hereby defined for purposes of this Part.

Agricultural Commercial Operation—the use of any agricultural facility or agricultural land for agricultural production or agricultural processing and includes the production and processing of crops or products, livestock or livestock products, farm-raised fish and fish products, wood, timber or forest products, fowl and plants for breeding or sale, and poultry or poultry products for commercial or industrial purposes. “Agricultural commercial operation” also includes the use of farm machinery, equipment, devices, chemicals, products for agricultural use, materials, and structures designed for agricultural use and used in accordance with traditional farm practices. This definition excludes urban forestry.

Commissioner—the commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

FAA—the Federal Aviation Administration of the United States Department of Transportation.

Licensee—the individual to whom a license to operate an aerial system is issued.

Operator—any natural person who manipulates the flight controls of an unmanned aerial system.

Unmanned Aerial System or *UAS*—any unmanned aircraft (UA) weighing less than 55 pounds and all of the associated support equipment, etc., necessary to operate the unmanned aircraft. This includes but is not limited to, drones, remote controlled aircraft, unmanned aircraft or any other such craft that is controlled autonomously by computer or remote control from the ground.

Unmanned Aircraft—an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

Visual Observer—any person who assists the operator to see and avoid other air traffic or objects aloft or on the ground.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:42.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§103. Authority and Applicability

A. Upon satisfaction of all United States Federal Aviation Authority and other federal requirements, and in accordance with chapter 1-A of title 3 of the *Louisiana Revised Statutes* of 1950, unmanned aerial systems weighing less than 55 pounds are hereby authorized for use in agricultural commercial operations in the state.

B. The provisions of this Chapter shall only be applicable to use of unmanned aerial systems in the course of agricultural commercial operations and specifically exclude hobby aircraft as defined by the United States Federal Aviation Authority; private aircraft under authority of the United States Federal Aviation Authority; aircraft operating under commercial aviation guidelines established by the United States Federal Aviation Authority; any aircraft, manned or unmanned, operating above the altitude of 500 feet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:42 and R.S. 3:44.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§105. Registration of Unmanned Aerial System

A. Each unmanned aerial system(s) operating in the course of an agricultural commercial operation shall be registered prior to use with the department. Application for the initial registration of an unmanned aerial system(s) shall be made on forms prescribed by the commissioner. Applicant shall provide proof of registration with the FAA when applicable.

B. Upon registration, the department shall issue a registration decal which shall be prominently displayed on the unmanned aerial system(s) at all times.

C. Registrations issued pursuant to this Part shall be valid for three years and may be reissued for additional three year periods upon completing the renewal application prescribed by the commissioner.

D. Registrations issued pursuant to this Part shall be non-transferrable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:42 and R.S. 3:43.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§107. Operator Licensure

A. No person shall operate an unmanned aerial system in the course of an agricultural commercial operation without having a valid license issued by the department. Application for licensure to operate an unmanned aerial system shall be made on forms prescribed by the commissioner. In order for an application for licensure to be considered, the applicant shall submit certification of satisfactory completion of an agricultural education and safety training course administered by the Louisiana Cooperative Extension Service.

B. When applicable, the applicant for licensure shall provide the department with proof of an airworthiness certificate or exemption, and any other document(s) required by the Federal Aviation Administration.

C. Licenses issued pursuant to this Part shall be valid for three years and may be reissued for additional three year periods upon completion of a renewal application as prescribed by the commissioner and proof of recertification by the Louisiana Cooperative Extension Service.

D. Any license to operate an unmanned aerial system issued by the department shall be non-transferrable and may only be used by the person listed as the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:43.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§109. Educational and Safety Training Course

A. Training courses shall be offered each year by the Louisiana Cooperative Extension Service on agricultural education and safety training for unmanned aerial systems. All courses shall be approved in advance by the department.

B. The Louisiana Cooperative Extension Service shall issue a certificate to those individuals who successfully complete the course. Certification of satisfactory completion of an agricultural education and safety training course shall remain valid for a period of three years from the date of

certification, after which operators shall be recertified by the Louisiana Cooperative Extension Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:43.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§111. General Requirements for All Licensees

A. All licensees shall cooperate with any representative of the department in any inspection and/or any other reasonable request. The giving of a false statement to any representative of the department by a licensee shall constitute a violation of this regulation.

B. A licensee shall, upon request of a representative of the department or law enforcement, make available a copy of the license and registration issued under this Part.

C. All licensees shall notify the department of any action taken against him by the FAA within 10 days of such action.

D. Any UAS operation that causes any injury to any person or damage to any property, other than to the UAS, shall be reported to the department within 24 hours by telephone and by written notice within 3 days.

E. Only the licensee may operate an unmanned aerial system. A licensee may not use his license to supervise the operation of an unmanned aerial system by an unlicensed person.

F. All licensees shall permit the department, upon request, to conduct an inspection of the unmanned aerial system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:43 and R.S. 3:44.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§113. Operating Rules

A. No person shall operate an unmanned aerial system in a careless or reckless manner so as to endanger the life or property of another.

B. The operator shall operate the unmanned aerial system in accordance with all federal requirements, except where state requirements are more stringent.

C. The operator is directly responsible for, and is the final authority as to the operation of the unmanned aerial system.

D. Preflight Inspection

1. The operator shall conduct a preflight inspection prior to every flight in order to determine that the unmanned aerial system is in a condition for safe operation. The operator shall discontinue the flight when he knows or has reason to know that continuing the flight would pose a hazard to other aircraft, people, or property. The preflight inspection shall document the following:

- a. local weather conditions;
- b. local airspace and any flight restrictions;
- c. the location of persons and property on the surface over which the UA will fly;
- d. other ground hazards; and
- e. purpose of flight.

2. The operator shall accurately maintain these records for a period of two years. A copy of these records shall be provided to any employee of the department upon request at a reasonable time during normal working hours.

E. No person shall operate an unmanned aerial system in areas that are prohibited or restricted by the Federal Aviation Administration unless that person has written permission.

F. The operator shall maintain a visual line of sight with the unmanned aircraft throughout the entire flight with vision that is unaided by any device other than corrective lenses (i.e., spectacles or contact lenses). Use of a visual observer does not relieve the operator of the duty of maintaining a visual line of sight with the unmanned aircraft.

G. The operator may use one visual observer during operation of the unmanned aircraft. The visual observer shall be in a position to maintain a visual line of sight with the unmanned aircraft at all times.

1. No person may act as an operator or visual observer for more than one unmanned aerial system at one time.

2. The operator and visual observer shall be able to maintain communication at all times during the flight of the unmanned aircraft.

3. Prior to flying, the operator shall ensure that all links between the ground station, the UA and the visual observer are properly working.

H. No person shall act as an operator or visual observer if a physical or mental condition exists that would interfere with the safe operation of an unmanned aerial system. No person shall act as an operator or visual observer if he or she is under the influence of alcohol or drugs which may interfere with his mental abilities.

I. No person shall operate an unmanned aircraft at speeds above 100 miles per hour (87 knots) calibrated airspeed at full power in level flight.

J. The operator shall not allow an object to be dropped or released from an unmanned aerial system if such action endangers the life or property of another.

K. No person shall operate an unmanned aircraft from a moving aircraft or from a moving vehicle unless that vehicle is moving on water.

L. No person shall operate a small unmanned aircraft system except between the hours of official sunrise and sunset, local time.

M. No person shall operate an unmanned aerial system at an altitude higher than 500 feet above ground level.

N. No person shall operate an unmanned aerial system with a flight visibility of less than 3 miles.

O. No person shall operate an unmanned aerial system within a three mile radius of an operating commercial airport.

P. Nothing in this Part shall be construed to give an operator the authority to apply pesticides without first obtaining the proper licenses as set forth in LAC 7:XXIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:43.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§115. Requests for Adoption, Amendment, or Repeal of a Rule

A. Any interested person may, pursuant to R.S. 49:953(C), request the department adopt, amend, or repeal a rule that the department has the authority to make.

B. A request for a rule change shall be in writing and shall contain the following information:

1. a draft of the proposed wording of the requested rule change or a statement detailing the content of the requested rule change;

2. the name, address, telephone number, fax number and e-mail address of the requesting party.

C. The request for a rule change shall be mailed or delivered to 5825 Florida Boulevard, Suite 2000, Baton Rouge, LA 70806.

D. The department shall consider the request for rule change within a reasonable time, not to exceed 90 days.

E. Any decision by the department shall be in writing and shall state the reasons for the denial or action taken. Such notice may be delivered by hand, mail, electronically or by any other means reasonably assured to provide notice to the requesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:42.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§117. Procedure for Declaratory Orders and Rulings

A. This rule provides for the filing and prompt disposition of requests for declaratory orders and rulings as to the applicability of any statutory provision or as to the applicability of any rule or order of the department, as required by R.S. 49:962 and 49:963(D).

B. A request for a declaratory order or ruling shall be in writing and shall contain the following information:

1. a citation to the specific statutory provision, rule or order that will be the subject of the declaratory order or ruling;

2. a concise statement of why the declaratory order or ruling is being requested;

3. a list of all persons the requesting party may call to testify and a list of all documents that may be submitted as evidence, if a hearing is called to take evidence;

4. the name, address, telephone number, fax number and e-mail address of the requesting party, either printed or written in legible form.

C. The request for a declaratory order or ruling shall be addressed to the department and shall be mailed or delivered to 5825 Florida Boulevard, Suite 2000, Baton Rouge, LA 70806.

D. The department shall consider the request within a reasonable time, not to exceed 90 days.

E. The department's decision shall be sent to the requesting party either by certified mail, return receipt requested; hand delivery; or commercial courier.

F. Failure of the requesting party, after notice, to attend any hearing or meeting regarding the request may be cause for the request to be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:42.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

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 Kevin Wofford, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on April 7, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Unmanned Aerial Systems

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Act 166 of 2015 enacted R.S. 3:41-47 and gave the Commissioner of the Department of Agriculture and Forestry the authority to adopt rules and regulations regarding the registration of unmanned aerial systems used in the course of

agricultural commercial operations. The proposed rules codify Act 166 of 2015. Proposed rules LAC 7:XL.VIII.105, 107, and 111 will have nominal implementation costs for the LA Department of Agriculture & Forestry (LDAF). Proposed rules 105 and 107 mandate that owners of unmanned aerial systems (UAS) for use in commercial agricultural operations must register their UAS with LDAF, as well as obtain a license for operation and a decal which must be displayed on all registered UAS devices. LDAF currently does not have the statutory authority to charge fees for the new services and will have to implement them using existing resources. LDAF will generate forms for registration of UAS devices and licenses to use UAS devices in commercial agricultural operations and make them available online. LDAF anticipates implementation costs to be nominal due to the limited scope of the UAS program, and can be absorbed using existing staff and resources.

Proposed rule 111 also gives LDAF the authority to inspect UAS licensees, which represents a new service for the department. LDAF will incur a nominal expense to the extent they conduct inspections. However the department anticipates the cost to be nominal due to the limited scope of the UAS program and limited need for inspections.

The remaining proposed rules will have no associated savings or costs for state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules regarding licensing UAS operators and registering UAS devices will not result in an increase or decrease in revenue collections for LDAF. To the extent that the LA Cooperative Extension Service, a division of the LSU AgCenter, offers a course on UAS education and safety pursuant to LDAF's licensing requirements and charges participants fees to take the course, any funds received from this source would be classified as self-generated revenues.

The proposed rules will not have an impact on revenues for local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will affect persons who desire to use an unmanned aerial system in an agricultural commercial operation. Persons using a UAS in an agricultural operation will be required to register their UAS and obtain a license to operate the UAS from the department. There will be an application for registration and for licensure. Under the proposed rules, registration and licensure must be renewed every three years. There is no fee or cost associated with registration of an unmanned aerial system or licensure to operate an unmanned aerial system. However, to register and become licensed to use a UAS in a commercial agricultural operation, one must first complete a course on UAS education and safety offered by the LA Cooperative Extension Service. Persons interested in using UAS devices in commercial agricultural applications may incur costs to the extent the LA Cooperative Extension Service requires a fee to take the UAS education and safety course.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not have an effect on competition and employment in either the public or private sector.

Dane Morgan
Assistant Commissioner
1602#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Forest Productivity Program and Electronic
Timber Records (LAC 7:XXXIX.1307, 1501 and 1503)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and through authority granted in accordance with Act 591 of 1970 and R.S. 3:4402, notice is hereby given that the Department of Agriculture and Forestry ("department"), through the Office of Forestry, intends to amend and enact the above cited regulations. LAC 7:XXXIX.1307 is being amended to increase the maximum cost share amount available to a landowner. This will result in more efficient use of timber management practices. LAC 7:XXXIX.1501 and 1503 are being amended in order to allow for the use of certain electronic records.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 13. Forestry Productivity Program

§1307. Extent of State Participation

A. - C. ...

D. The maximum cost share rates are established as follows. Fifty percent of the cost per acre shall not exceed the following rates.

1. Artificial Regeneration: Tree Planting
 - a. Pine (loblolly, slash or shortleaf, planting and seedling cost): \$50/acre
 - b. Containerized Pine (loblolly, slash or shortleaf, planting and seedling cost): \$60/acre
 - c. Hardwood (planting and seedling cost): \$90/acre
 - d. Containerized Hardwood (planting and seedling cost): \$110/acre
 - e. Labor Only (pine or hardwood): \$25/acre
 - f. Labor Only (containerized pine or hardwood): \$35/acre
 - g. Longleaf Pine (planting and seedling cost): \$60/acre
 - h. Containerized Longleaf Pine (planting and seedling cost): \$80/acre
2. Artificial Regeneration: Direct Seeding
 - a. Pine (seed and labor cost): \$15/acre
 - b. Hardwood (seed and labor cost): \$30/acre
3. Artificial Regeneration: Site Preparation
 - a. Light (disking, mowing, or sub-soiling): \$15/acre
 - b. Burn Only (cut-over areas or agriculture lands): \$20/acre
 - c. Chemical and Burn (aerial, ground, or injection): \$75/acre
 - d. Chemical Only: \$60/acre
 - e. Mechanical and Burn: \$115/acre
 - f. Mechanical Only: \$100/acre
 - g. Post-site Preparation (aerial, ground, or injection): \$50/acre
 - h. Chemical and Herschal Drag: \$90/acre
4. Site Preparation for Natural Regeneration
 - a. Burning Only: \$15/acre
 - b. Chemical or Mechanical: \$65/acre
 - c. Chemical and Burning: \$75/acre

5. Control of Competing Vegetation
 - a. Chemical Release (aerial, ground, or injection): \$50/acre
 - b. Precommercial Thinning (mechanical): \$65/acre
 - c. Burning Only: \$15/acre
- E. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008), LR 41:2102 (October 2015), LR 42:

Chapter 15. Timber Harvesting and Receiving Records

§1501. Loaders Log: Required Information; Distribution; Maintenance of Records

A. - B.9. ...

C. A loaders log may be kept in an electronic form. If a loaders log is kept in electronic form, it shall contain all required information set forth in Subsection B of this regulation and be maintained for a period of not less than six years.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:2985 (October 2011), LR 42:

§1503. Scale/Load Tickets: Required Information; Distribution; Maintenance of Records

A. - C.9. ...

D. A scale ticket may be kept in an electronic form. If a scale ticket is kept in electronic form, it shall contain all required information set forth in Subsection C of this regulation and be maintained for a period of not less than six years. The use of an electronic scale ticket does not relieve the purchaser of the timber from the obligations set forth in Subsection B of this regulation. If scale tickets are kept in electronic form as provided by this Rule, the signature required by Paragraph C.9 of this Section may also be in electronic form.

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:2985 (October 2011), LR 42:

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 Wade Dubea, State Forester, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 6000, Baton Rouge, LA 70806 and must be received no later than 12 p.m., April 7, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Office of Forestry Forest Productivity
Program and Electronic Timber Records**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed amendment to LAC 7:XXXIX.1307 will result in an increase in expenditures for the LDAF Forestry Program. The proposed rule allows private landowners to cost share and receive reimbursements for two new services, chemical only site preparation (up to \$60/acre) and mechanical only site preparation (up to \$100/acre), through the Forest Productivity Program. The Forest Productivity Program provides financial assistance in the form of reimbursements to eligible landowners for establishing and improving crops of trees. To the extent that landowners make use of the new services available for cost sharing, LDAF will realize an indeterminable increase in expenditures. The amendments to Rule 1307 will not require additional paperwork for the Forest Productivity Program, as paperwork is already filled out by the

landowner and any changes to the paperwork to reflect the amended rules would be minimal.

The proposed amendments to LAC 7:XXXIX.1501-1503 will not result in any material savings or costs to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes are not anticipated to have a direct material effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The amendment to Rule 1307 will allow private landowners to cost share two new services, chemical only site preparation (up to \$60/acre) and mechanical only site preparation (up to \$100/acre), through the Forest Productivity Program. Landowners who utilize the two new services now included in the cost share program will be entitled to a per-acre reimbursement at the rates outlined in Rule 1307.

The amendments to Rules 1501 and 1503 will permit members of the timber industry who want to use electronic records for loaders logs and/or scale/load tickets to do so. All costs to track loaders logs and/or scale/load tickets electronically will be borne by operators who choose to do so.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule changes will not have a material effect on competition and employment.

Dane Morgan
Assistant Commissioner
1602#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and
Practices—Parental Viewing of Assessments
(LAC 28:CXI.321)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices* §321. Parental Viewing of Assessments. Through House Resolution 195 of the 2015 Regular Legislative Session (HR 195), the Louisiana Legislature requested the State Board of Elementary and Secondary Education to promulgate rules relative to teacher and parental access to and review of student assessments. In response to this request, the proposed revisions establish a process for student assessment(s) to be viewed by the parent or legal custodian of a student beginning with the assessments administered to students during the 2015-2016 school year.

Title 28

EDUCATION

**Part CXI. Bulletin 118—Statewide Assessment
Standards and Practices**

Chapter 3. Test Security

§321. Parental Viewing of Assessments

A. State assessments serve as valid and reliable measurements of students' learning of academic content and skills at the end of grade levels or courses. They provide

valuable information for parents and educators in determining a student's readiness for higher-level content and the need for additional academic supports. Thus, in making assessments available for viewing by parents and supporting their involvement in their child's education, it is essential to maintain the integrity and security of the assessments to ensure that they continue to serve as valid and reliable measurements of student learning.

B. Parents and legal custodians of students taking Louisiana statewide assessments shall be granted the opportunity to view each assessment taken by their child upon request as provided in this section, with the exception of proprietary assessments used in multiple states for purposes other than state assessment, such as college admissions and college credit. The LDE may provide for standardized processes to receive and schedule assessment viewings and to maintain test security in accordance with this section.

C. The viewing shall be held not later than ten business days following the release of student-level state assessment results by the LDE to local education agencies and shall be offered for ten business days at the LDE office in Baton Rouge during normal business hours.

1. The viewing shall take place by appointment in the presence of the director of assessment or his designee.

2. In order to confirm the requestor is the parent or legal custodian of a child who took a Louisiana statewide assessment, the requestor shall present a valid form of government issued identification and the child's birth certificate or a recently issued report card containing child's name, school, district, and grade level. The LDE shall view the child's birth certificate or report card for identification purposes only and shall not maintain a copy of such documentation.

3. If a parent or legal custodian has questions or concerns regarding a particular assessment item or question, he shall be provided an opportunity at the time of the review to discuss his questions or concerns with the director of assessments or other appropriate person as determined by the director of assessments

4. The parent or legal custodian shall be given a reasonable amount of time to view the assessment; however, such time shall not exceed two hours.

5. During the review, the parent or legal custodian shall not:

- a. photocopy or photograph any assessment item or question;
- b. make any notes, including but not limited to handwritten, typed, or orally recorded notes that identify an assessment item or question;
- c. bring an electronic device into the viewing area; or
- d. discuss or disclose an assessment item or question with another child's parent or legal custodian.

6. Following the review, the parent or legal custodian shall not discuss or disclose an assessment item or question to any person.

D. A parent or legal custodian who violates the provisions of this Section shall be required to reimburse the LDE for any costs incurred by the LDE to replace any assessment items, questions, or full test forms determined by

the LDE to no longer be secure due to the actions of the parent or legal custodian.

1. Replacement of assessment items or questions shall include but is not limited to:

- a. the cost of developing and field testing any items or questions; and
- b. printing revised test booklets, as needed to ensure the security of the assessment.

2. The LDE may take any steps necessary to secure collection, including referral to the attorney general for collection. If the LDE makes such referral, the attorney general shall be responsible for collection of any balance due to the state resulting from the actions of the parent or legal custodian.

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

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

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 10, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 118** **Statewide Assessment Standards and Practices** **Parental Viewing of Assessments**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

House Resolution 195 of 2015 requested the State Board of Elementary and Secondary Education to promulgate rules relative to parental access to and review of assessments. In response to this request, the proposed revisions establish a process for student assessment(s) to be viewed by the parent or legal custodian of a student beginning with the assessments administered to students during the 2015-2016 school year.

The proposed policy revision could increase costs for the Department of Education; however, such increases are not likely to be significant. Increased costs could be associated with the requirement that staff meet with parents or legal custodians to view the documents and to answer questions. Parents or legal custodians are responsible for the cost to replace any items determined to be no longer secure due to their actions revealing the content. However, if the Attorney General is not able to recoup the costs from these individuals, the DOE will be required to fund replacement costs including development of new items and printing revised test booklets. These costs will likely be absorbed in the current assessment contract but to the extent this happens with recurring regularity, the cost of the state assessment contract could increase. Assessment contracts are funded with a mix of state and federal funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Parents and guardians not living in Baton Rouge will incur indeterminable costs to travel to Baton Rouge to review assessments. Parents and legal custodians may be required to pay the cost of replacement of assessment items determined to be no longer secure due to actions of the parent or legal custodian.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1602#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority Office of Student Financial Assistance

START Saving Program
(LAC 28:VI.Chapters 1 and 3)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking redefines maximum allowable account balance, adds computer and computer-related hardware and software to the definition of qualified higher education expenses, permits transfer of account ownership under certain circumstances, includes independent student as a separate account category, and deletes a provision which allows account owners to select the investment options from which disbursements will be made. This rulemaking also deletes a provision that states LATA will provide an estimate of the minimum monthly deposit an account must make in order to reach their goals. In addition, this rulemaking makes grammatical, spelling, and technical corrections. (ST16168NI)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 1. General Provisions

Subchapter A. Tuition Trust Authority

§101. General Provisions

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;
2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;

3. provide the citizens of Louisiana with financing assistance for education and protection against rising postsecondary education costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;

4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and

5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes education savings accounts (ESAs) by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated beneficiary.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for earnings enhancements (EEs) provided by the state to help offset the beneficiary's cost of qualified higher education expenses.

2. The EE amount is determined by the account owner's classification, annual federal adjusted gross income, and total annual deposits of principal.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), amended LR 24:1267 (July 1998), repromulgated LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 28:2334 (November 2002), LR 42:

§103. Legislative Authority

A. Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3091-3099.2).

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 42:

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the House of Representatives and Senate.

B. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), amended LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 42:

§107. Applicable Definitions

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

Account Owner—the *person(s)*, independent student, organization or group that completes the START Saving Program owner's agreement on behalf of a beneficiary and is the account owner of record of all funds credited to the account.

Beneficiary—the person named by the account owner in the Education Savings Account (ESA) owner's agreement or the person named by the LATTA when authorized to make such a designation by the owner of an account that is classified under §303.A.6. as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified higher education expenses.

Beneficiary's Family—for the purpose of §303.A.6. one of the following persons:

a. the beneficiary's parent(s) or court ordered custodian; or

b. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or

c. a person who certified that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

Current Value—the value of an education savings account at a given point in time.

a. The current value of fixed earnings investment options includes the accumulated value of the principal deposited, earnings on deposits, earnings enhancements (EEs) allocated to the account and the earnings on the EEs.

b. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit plus the earnings enhancements (EEs) allocated to the account and the earnings on the EEs. This value may be more or less than the amount originally deposited.

Deposits—the actual amount of money received from an account owner for investment in an education savings account. Deposits do not include earnings on deposits nor earnings enhancements or interest earned thereon.

Disabled or Disability—an individual who is considered to be disabled because he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered disabled unless he furnishes proof of the existence thereof in such form and manner as the LATTA may require.

Earnings Enhancement (EE)—a payment allocated to an ESA on behalf of the beneficiary of the account by the state. The amount of the annual EE is calculated based upon the classification of an account, the annual federal adjusted gross income of the account owner, and total annual deposits of principal into an ESA, including deposits in fixed earning and variable earnings options. EEs and the interest earned thereon may only be used to pay the beneficiary's qualified

higher education expenses, or portion thereof, at an eligible educational institution and cannot be refunded.

Earnings Enhancement Cap—the maximum of deposits in an account for which earnings enhancements will be paid. The earnings enhancement cap is reached when an account has a current value that is equal to or exceeds five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the earnings enhancement cap will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Education Savings Account (ESA)—a savings account established by a natural person or a legal entity to pay qualified higher education expenses of the designated beneficiary.

Educational Term—a semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational Institution—either:

a. a state college or university or a technical college or institute or an independent college or university located in this state that is approved by the U.S. Secretary of Education to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

b. a public or independent college or a university located outside this state that is approved by the U.S. secretary of education to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

c. a Louisiana licensed proprietary school, licensed pursuant to R.S. chapter 24-A of title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

False or Misleading Information—a statement or response made by a person, which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings—the placement of all deposits in an ESA, including the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Independent Student—is a person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

a. The HEA defines *independent student* as a student who:

i. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

ii. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm or is currently serving on active duty in the Armed Forces for other than training purposes;

iii. is an orphan, in foster care, or a ward of the court or was in foster care or was a ward of the court until the individual reached the age of 18;

iv. has legal dependents other than a spouse;

v. is a graduate or professional student;

vi. is married; or

vii. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

b. An independent student may only open an account as an account owner if he/she is 18 years or older.

Legal Entity—juridical person including, but not limited to, groups, trusts, estates, associations, organizations, partnerships, and corporations that are incorporated, organized, established, or authorized to conduct business in accordance with the laws of one or more states or territories of the United States. A natural person is not a legal entity.

Louisiana Education Tuition and Savings Fund (the Fund)—is a special permanent fund maintained by the Louisiana state treasurer for the purpose of the START Saving Program and is the account into which all initial deposits made to ESAs are deposited. The fund includes the Savings Enhancement Fund, which is a special sub-account designated to receive earnings enhancements appropriated by the state, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA)—the agency of state government responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident—

a. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

i. if registered to vote, is registered to vote in Louisiana;

ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

iv. if earning an income, has complied with state income tax laws and regulations;

b. a member of the Armed Forces stationed outside of Louisiana who claims Louisiana on his/her official DD Form 2058 as his/her legal residence for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation;

c. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

d. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements;

e. a legal entity is considered to be a Louisiana resident if it is incorporated, organized, established or authorized to conduct business in accordance with the laws of Louisiana or registered with the Louisiana Secretary of State to conduct business in Louisiana and has a physical place of business in Louisiana.

Louisiana Tuition Trust Authority (LATTA)—the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account Balance—\$500,000.

Member of the Family (with respect to the designated beneficiary)—

- a. the spouse of such beneficiary; or
- b. an individual who bears one of the following relationships to such beneficiary:
 - i. a son or daughter of the beneficiary, or a descendant of either;
 - ii. a stepson or stepdaughter of the beneficiary;
 - iii. a brother, sister, stepbrother, or stepsister of the beneficiary;
 - iv. the father or mother of the beneficiary, or an ancestor of either;
 - v. a stepfather or stepmother of the beneficiary;
 - vi. a son or daughter of a brother or sister of the beneficiary;
 - vii. a brother or sister of the father or mother of the beneficiary; or
 - viii. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or
 - ix. a first cousin of the beneficiary; or
- c. the spouse of an individual listed in Clauses b.i-viii.

Natural Person—a human being.

Other Person (with respect to any designated beneficiary)—any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

Owner's Agreement—the agreement for program participation that the account owner completes and signs. It incorporates, by reference, R.S. 17:3091 et seq., and the rules promulgated by the LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

Person—a human being or a juridical entity.

Qualified Higher Education Expenses—

- a. tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and
- b. room and board; and
- c. expenses for special needs services in the case of a special needs beneficiary, which are incurred in connection with such enrollment or attendance; and
- d. for the calendar years 2009 and 2010 only, expenses paid or incurred for the purchase of any computer technology or equipment or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature;
- e. for calendar year 2015 and thereafter, expenses for the purchase of computer or peripheral equipment,

computer software, or Internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

Rate of Expenditure—the rate (see §309.B) per educational term at which the EEs may be disbursed from an ESA to pay for the beneficiary's qualified higher education expenses at an eligible educational institution. For each disbursement requested by an account owner, EEs and the earnings thereon will be disbursed from the account in the same ratio that they bear to the current value of the account.

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

Refund Recipient—the person designated by the account owner in the START Saving Program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner or the beneficiary.

Room and Board—the reasonable cost for the educational term incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the maximum amount included for *room and board* for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 10871l) as determined by the eligible educational institution for such period, or if greater, the actual invoice amount the student residing in housing owned or operated by the eligible education institution is charged by such institution for room and board.

Saving Enhancement Fund—the sub-account established within the Tuition and Savings Fund by the State Treasurer to receive funds appropriated by the legislature or donated from any other source for the purpose of funding EEs.

Scheduled Date of First-Enrollment (for a dependent beneficiary)—the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *earnings enhancement cap*.

Special Needs Services and Beneficiary—services provided to a beneficiary because the student has one or more disabilities.

Trade Date—the date that a deposit to an investment option that includes variable earnings is assigned a value in units, the date a disbursement or refund from an investment option that includes variable earnings is assigned a value, or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

Tuition—the mandatory educational charge required as a condition of enrollment and is limited to undergraduate

enrollment. It does not include non-residence fees, laboratory fees, room and board or other similar fees and charges.

Variable Earnings—refers to that portion of funds in an ESA, invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

Variable Earnings Transaction Fund—the subaccount established within the Louisiana Education Tuition and Savings Fund to receive funds as directed by rule.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1491 (August 2009), LR 38:3162 (December 2012), LR 42:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An education savings account (ESA) is established on behalf of a designated beneficiary to provide the funding necessary for the beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. ESAs may offer investment options that provide either fixed earnings or variable earnings.

1. The account owner classified under §303.A.1, 2, 3, 4, and 5 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §303.A.6 may designate the beneficiary in the owner's agreement, provided the beneficiary is not a member of the account owner's family, or authorize the LATTA to select a beneficiary for the account.

3. A beneficiary selected by the LATTA must meet the following criteria:

- a. the beneficiary is a Louisiana resident;
- b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);
- c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;
- d. demonstrate superior early academic preparation in the third grade by achieving a score on the Iowa Tests of Basic Skills, Stanford 9 Test or TerraNova Test that is in the top two quartiles; and
- e. the guidelines provided by the account owner, if any; provided such guidelines are lawful.

4. Procedure for Selection (Reserved)

B. Program Enrollment Period. An account may be opened and an eligible beneficiary may be enrolled at any time during the calendar year.

C. Completing the Owner's Agreement

1. This agreement must be completed, in full, by the account owner.

2. The account owner shall designate a beneficiary, except as provided in Paragraph A.2 above.

3. The account owner may designate a limited power of attorney to another person who would be authorized to act on the account owner's behalf, in the event the account owner becomes incapacitated.

4. Transfer of account ownership is only permitted as set forth in §313.

D. Agreement to Terms. Upon executing an owner's agreement, the account owner agrees to the following statements.

1. Admission to a Postsecondary Educational Institution—that participation in the START Program does not guarantee that a beneficiary will be admitted to any institution of postsecondary education.

2. Payment of Qualified Higher Education Expenses—that participation in the START Program does not guarantee that the full cost of the beneficiary's qualified higher education expenses will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student.

3. Maintenance of Continuous Enrollment—that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion.

4. Guarantee of Redemption Value—that the LATTA guarantees payment of the redemption value of an ESA that is invested in fixed earnings, subject to the limitations imposed by R.S. 17:3098; however, the LATTA does not guarantee the value of an ESA that is invested in variable earnings.

5. Conditions for Payment of Education Expenses—that payments for qualified higher education expenses under the START Saving Program are conditional upon the beneficiary's acceptance and enrollment at an eligible educational institution.

6. Fees

a. That except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account at standard fees established by the LATTA.

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

c. That financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

7. That an account whose owner is a legal entity or is classified under §303.A.6. cannot be terminated and the funds deposited in the account will not be refunded to the account owner.

8. That an account owner who is a legal entity or is classified under §303.A.6, can change the beneficiary of an account to one or more persons who are not members of the family of the beneficiary in accordance with §313.A.4.c, however, in such case:

a. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

b. the sEEs and interest thereon will not be transferred to the new beneficiary (Note that the deposit(s) will be eligible for EEs for the year of the deposit.);

c. the provisions of §301.A.2 shall apply to account owners classified in accordance with §303.A.6.

9. Only the account owner or the beneficiary may be designated to receive refunds from the account owned by an account owner who is a natural person other than a natural person classified as an account owner under §303.A.6. In the event of the death of the account owner when the account owner is designated to receive the refund and there is no substitute account owner named, the refund shall be made to the account owner's estate.

10. That in the event an account owner who is a legal entity classified as an account owner under §303.A.4 or 5 is dissolved, the beneficiary will become the owner of the account.

11. That in the event an other person classified as an account owner under §303.A.6 dies or is dissolved, the beneficiary will become the account owner, provided that, all the restriction provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority is authorized to designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.6.

E. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be accepted upon receipt.

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

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

1. be a United States citizen; or

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

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

G. Residency Requirements

1. On the date an account is opened, either the account owner or his designated beneficiary must be a *Louisiana resident*, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

a. his Social Security number;

b. the designated beneficiary's Social Security number;

c. the beneficiary's date of birth;

d. the familial relationship between the account owner and the designated beneficiary, if any;

e. the account owner's prior year's federal adjusted gross income as reported to the Internal Revenue Service; and

f. in the case of an account owner classified under §303.A.6:

i. the Social Security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

ii. if applicable, proof that the beneficiary is a ward of the court; or

iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. By signing the owner's agreement, the account owner who is classified under §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, certifies that:

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

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

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

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

b. the person signing on behalf of an account owner who is a legal entity certifies that:

i. the account owner is a *legal entity* as defined in rule and the application;

ii. he or she is the designated agent of the legal entity;

iii. he or she is authorized to take any action permitted the account owner;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner;

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

vi. if the beneficiary is not a Louisiana resident, the legal entity fulfills the definition of *Louisiana resident* as found in rule and the application;

c. the natural person classified as an account owner under §303.A.6 certifies that:

i. the beneficiary is a Louisiana resident;
ii. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

iii. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner; and

v. the information provided in the application is true and correct.

4. Social Security numbers and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting and to access individual account information for administrative purposes (see §315).

I. Number of Accounts for a Beneficiary. There is no limit on the number of ESAs that may be opened for one beneficiary by different account owners; however, the cumulative credits in all accounts for the same beneficiary may not exceed the maximum allowable account balance for that beneficiary and the cumulative credits in all ESAs for the same beneficiary will be used to determine when these accounts are fully funded and are no longer eligible for EEs.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 36:313 (February 2010), LR 41:669 (April 2015), LR 42:

§303. Account Owner Classifications

A. An account owner shall be classified by the authority under one of the following classifications:

1. a person or persons determined by the authority to be the parent, grandparent, or court ordered custodian of the person being designated as beneficiary of the account or who claim the person being designated as beneficiary as a dependent on their federal income tax return, and, at the time of the initiation of the agreement, the person or beneficiary is a resident of the state; or

2. a person determined by the authority to be a member of the family of the beneficiary and, at the time of the initiation of the agreement, the person or the beneficiary is a resident of the state; or

3. an independent student who is a resident of the state;

4. any other person and, at the time of the initiation of the agreement, the beneficiary is a resident of the state; or

5. any other person who, at the time of the initiation of the agreement, is a resident of the state and the beneficiary is not a resident of the state;

6. any other person or any government entity, and at the time of the initiation of the agreement:

a. the beneficiary is a resident of the state;

b. the federal adjusted income of the beneficiary's family is less than \$30,000 or the beneficiary must be eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. the deposits to the account are an irrevocable donation by the owner.

B. In order to qualify as an account owner in any classification, a natural person, to include an independent student, must be of the age of majority under Louisiana law.

C. Account owner classification is made at the time of the initiation of the agreement. Changes in the residency of the account owner or beneficiary after the initiation of the agreement do not change the account owner's classification.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:1879 (November 2001), amended LR 28:779 (April 2002), LR 28:2334 (November 2002), LR 30:787 (April 2004), LR 42:

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See *fees* in §301.D.6.)

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

4. A lump sum deposit may not exceed the maximum allowable account balance (see §107).

B. Deposit Options

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

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

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

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

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

2. Account owners are encouraged to maintain a schedule of regular monthly deposits.

3. Through completion of schedule D of the Louisiana state income tax return, account owners may designate all or any portion of a state income tax refund due them as a deposit to their ESA. If the account owner has established more than one ESA, the amount of the refund identified on schedule D of the Louisiana state income tax return shall be divided by the number of accounts owned and an equal share shall be deposited into each such account.

C. Limitations on Deposits

1. All deposits must be rendered in amounts of at least \$10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §305.B.1.

2. Once the balance in an account reaches the earnings enhancement cap (see §107), it will no longer be considered for EEs, regardless of the total amount of annual deposits that may be subsequently made to the account.

3. Once the cumulative contributions, earnings on contributions, EEs and interest accrued thereon has reached or exceeded the maximum allowable account balance (see §107), principal deposits will no longer be accepted to the account until a qualified distribution is made which reduces the account balance below the maximum allowable account balance.

D. Investment Options

1. The state treasurer shall select fixed earnings and variable earnings investment options.

2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The account owner:

a. shall select one investment option in completing the owner's agreement, and

b. beginning December 1, 2009, may select the same or a different investment option at the time of each deposit.

4. Changing the Investment Option

a. Through 2008, the investment option can be changed only once in any 12-month period.

b. For the 2009 calendar year, the investment option may be changed at any time, but no more than two times.

c. Beginning December 1, 2009, if an ESA has funds in two or more investment options:

i. each option in the account may be changed to one different option or allowed to remain the same.

ii. all funds in each option changed must be transferred.

iii. funds in one option may not be moved to more than one option.

iv. all changes in investment options must take place in one transaction.

v. whether the funds are moved from one option or all options, the change is considered the one per calendar year investment option change.

d. Beginning the 2010 calendar year and thereafter, the investment option may be changed one time each calendar year.

5. Once a selection is made, all deposits shall be directed to the last investment option selected.

E. Effective Date of Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.

b. Deposits made by electronic funds transfer through the Automated Clearing House (ACH) Network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer, including deposits made by transferring funds from a variable earnings option in which they are currently deposited to another option, will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits for investment options that include variable earnings which are received via check or electronic funds transfer through the Automated Clearing House Network will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior to the trade date shall be deposited in the Variable Earnings Transaction Fund.

4. Deposits received on weekends and holidays will be considered received on the next business day.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:

§307. Allocation of Earnings Enhancements (EEs)

A. EEs are state-appropriated funds allocated to an ESA on behalf of the beneficiary named in the account.

1.a. The EEs for account owners who are classified under §303.A.1, 2 and 3 are calculated based upon the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal.

b. The EEs for account owners who are classified under §303.A.6 are calculated based:

i. upon the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal; or

ii. if the beneficiary is a ward of the court, using the highest EE available and the account owner's total annual deposits of principal.

2. Although allocated to individual accounts, EEs are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay qualified higher education expenses at an eligible education institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income.

1.a. For account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities nor other persons classified as account owners under §303.A.6), the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EE allocation.

b. For account owners who are classified under §303.A.6, the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EEs or proof that the beneficiary is a ward of the court.

2.a. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.1, 2, 3, or 4 must:

i. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the account owner's federal adjusted gross income; or

ii. provide the LATTA a copy of the account owner's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs.

b. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.6 must:

i. provide authorization from the beneficiary's family for the LATTA to access the beneficiary's family's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the federal adjusted gross income of the beneficiary's family; or

ii. provide the LATTA a copy of the beneficiary's family's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

3.a. In completing the owner's agreement, account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) authorize the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the account owners' federal adjusted gross income. In the event the account owner does not file tax information with the Louisiana Department of Revenue, they must provide the LATTA with:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement as to why no income tax filing was required of the account owner.

b. In completing the owner's agreement, account owners who are classified under §303.A.6 provide authorization from the beneficiary's family for the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the beneficiary's family's federal adjusted gross income. In the event the beneficiary's family does not file tax information with the Louisiana Department of Revenue, the beneficiary's family must provide:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement that the beneficiary lives with them, that they provide more than 50 percent of the beneficiary's support and an explanation as to why the beneficiary's family was not required to file an income tax return; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

4. EEs at the rate prescribed in §307.D cannot be allocated to an ESA unless the LATTA has received verification of an account owner's federal adjusted gross income by the deadline contained in §307.B.5. Interest on EEs will not accrue to the benefit of an ESA until the LATTA has allocated the EEs to the account.

5. If an account owner is classified in §305.A.1 or 2 and the tax documents required by §307.B.2 are not received by February 15 immediately following the year for which the beneficiary of the account is being considered for EEs, as an exception to §307.D, the account shall be allocated EEs for the year being considered at the EE rate shown in §307.D for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

6. Example. An account owner has made deposits in a START account for a beneficiary during calendar year 2010 and desires to receive the highest EE rate authorized for those deposits. If the account owner did not file a Louisiana income tax return for the tax year 2009 or is notified by the LATTA that the Louisiana Department of Revenue could not validate his federal adjusted gross income, he must submit the tax documents for tax year 2009 required by §307.B.2.b so that they are received by the LATTA no later than February 15, 2011, or his EE rate will be defaulted to the rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

C. Earnings Enhancement Rates.

1. The EE rates applicable to an ESA under §303.A.1, 2, 3 and 6 are determined by the federal adjusted gross income of the account owner or the beneficiary's family, as applicable, according to the following schedule.

| Reported Federal Adjusted Gross Income | Earnings Enhancement Rate |
|--|---------------------------|
| 0 to \$29,999 | 14 percent |
| \$30,000 to \$44,999 | 12 percent |
| \$45,000 to \$59,999 | 9 percent |
| \$60,000 to \$74,999 | 6 percent |
| \$75,000 to \$99,999 | 4 percent |
| \$100,000 and above | 2 percent |

2. The availability of EEs to be allocated to ESAs is subject to an appropriation by the Louisiana Legislature.

3. In the event that sufficient EEs are not appropriated during any given year, the LATTA shall reduce EE rates, pro rata, as required to limit EEs to the amount appropriated.

D. The EE rates applicable to an ESA established by a person or persons identified in §303.A.4 shall be fixed at the EE rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of \$100,000 and above.

E. An ESA established by an authorized account owner identified in §303.A.5 shall not be eligible for EEs.

F. Restrictions on allocation of EEs to ESAs. The allocation of EEs is limited to ESAs which:

1. have not reached the earnings enhancement cap (see §107); and

2. have an account owner who falls under one of the classifications described in §303.A.1, 2, 3, 4, or 6.

G. Frequency of Allocation of EEs to ESAs. EEs will be allocated annually, posted to the accounts as of December 31 of the year earned and reported to account owners before March 31 following the allocation.

H. Rate of Interest Earned on EEs. The rate of interest earned on EEs shall be the rate of return earned on the Savings Enhancement Fund as reported by the state treasurer.

I. Restriction on Use of Earnings Enhancements

1. EEs, and any interest which may accrue thereon, may only be expended in payment of the beneficiary's qualified higher education expenses, or a portion thereof, at an eligible educational institution.

2. EEs, although allocated to a beneficiary's account and reported on the account owner's annual statement, are assets of the state of Louisiana and are not the property of the account owner until disbursed to pay a beneficiary's qualified higher education expenses at an eligible educational institution.

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§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Request for Disbursement

1. For each term the account owner intends to fund the beneficiary's qualified higher education expenses, the account owner shall submit a request for disbursement.

2. The request for disbursement must include:

- a. the START account number;
- b. the account owner's name, address, Social Security number and signature (may be electronic);
- c. the beneficiary's name, address, and Social Security number;
- d. the amount to be disbursed and to whom; and
- e. the name and address of the eligible educational institution.

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

4. If there is more than one account with the same beneficiary, each account owner requesting a disbursement must complete a request for disbursement and the disbursements shall be made from each account, in turn, in the order the disbursement requests were received.

5. Disbursements from all accounts with the same beneficiary shall not exceed the qualified higher education expenses of the beneficiary for the school attended.

6. Disbursements may be made to the eligible educational institution, account owner, and/or beneficiary. If all of the disbursement is made to the account owner and/or the beneficiary and LOSFA determines that the beneficiary is not enrolled in an eligible educational institution during the

semester or term for which the disbursement was intended, LOSFA shall notify the account owner that the disbursement will constitute a refund for state and federal income tax purposes unless returned to the START account. If the disbursement is not returned to the account within 60 days of the original notice, LOSFA shall recover the amount of the EEs and interest thereon included in the disbursement from any principal and interest remaining in the account, and, in the authority's sole discretion, may refund any balance remaining thereafter and close the account.

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

B. Rate of Expenditure

1. As authorized by the account owner, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and EEs (including earnings on EEs) in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The account owner may not withdraw an amount in excess of the beneficiary's qualified higher education expenses for a specific term of enrollment or the value of the account, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the beneficiary's enrollment and the institution's receipt of a START disbursement, the institution may credit the student's account. Should the amount received exceed the amount owed to the institution, the institution shall disburse the balance to the beneficiary, unless the beneficiary directs otherwise.

2. If the designated beneficiary of an ESA account enrolls, but fails to attend or withdraws from the institution prior to the end of the educational term and disbursements from the ESA were made to the eligible educational institution to pay all or part of his qualified higher education expenses for that educational term, an institutional refund to the ESA may be required.

3. If any refund is due the beneficiary from the eligible educational institution, a pro rata share of any refund of qualified higher education expenses equal to that portion of the qualified higher education expenses paid by disbursements from the ESA shall be made by the eligible educational institution to the LATTA.

4. The LATTA will credit any refunded amount to the appropriate ESA.

E. Advance Enrollment. A beneficiary may enroll in an eligible educational institution prior to his scheduled date of first-enrollment (see §107) and utilize ESA funds; however, a beneficiary may not utilize funds from an ESA prior to one year from the date the beneficiary made the first deposit opening the account.

F. Part-Time Attendance and Nonconsecutive Enrollment. A beneficiary may utilize funds in an ESA for enrollments which are nonconsecutive and for part-time attendance at an eligible educational institution, including enrollment in college classes while still in high school. Room and board is only a qualified higher education expense for students who are enrolled at least half time; however, room and board is not a qualified higher education expense for students who are enrolled in college classes while still in high school.

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

A. Account Termination

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, may terminate an account at any time.

2. The LATTA may terminate an account in accordance with this Subsection, §309.A.6. and §311.E.

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

4. The LATTA may terminate an account if the beneficiary dies and a new beneficiary is not named within 60 days of the death.

5. The LATTA may terminate an account if the beneficiary becomes disabled and a new beneficiary is not named by the time the beneficiary who has become disabled reaches age 25.

6. The account owner who is a legal entity or is classified under §303.A.6, may not terminate an account; however, the account owner who is a legal entity or is classified under §303.A.6 may designate a substitute beneficiary in accordance with §313.A.5.b.

B. Refunds

1. A partial refund of an account may only be made as described in §309.E.1 and §311.E.3.

2. All other requests for refund may result in the termination of the account and in the refund of:

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

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

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, less earning enhancements allocated to the account and earnings thereon if the account has been open for less than 12 months. Any increase in the value of an account invested in a variable earnings option over the amount deposited shall be forfeited by the account owner and deposited in the Variable Earnings Transaction Fund, if the account was invested in a variable earnings option and terminated within 12 months of the date the account was opened;

d. the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, if the account has been open for 12 or more months.

3. No refunds shall be made to an account owner who is a legal entity classified under §303.A.4 or 5. If an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is terminated by the LATTA or by the account owner in accordance with §311.E or F, the refund will be made to the beneficiary or to the beneficiary's estate if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §303.A.6. If such an account is terminated by the LATTA in accordance with §311.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

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

C. Designation of a Refund Recipient

1. In the owner's agreement, the account owner who is a natural person, except one who is classified under §303.A.6, may designate himself or the beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the beneficiary receives any refund of principal and earnings from the account, the tax consequences must be determined by the recipient.

4. The beneficiary of an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is automatically designated as the refund recipient.

5. Funds in an account classified under §303.A.6 shall not be refunded.

D. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided *false or misleading information* (see §107).

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

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

E. Voluntary Termination of an Account

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

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

3. Except for accounts classified in accordance with §303.A.6, accounts may be terminated and fully refunded for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary of the account, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. Refunds made under this §311.E.3 are currently exempt from additional federal taxes.

F. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

G. Refund Payments. Payment of refunds for voluntary termination under §311.E or partial refunds of accounts pursuant to §311.E.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the calendar year preceding the year in which the request to terminate an account is made. Interest earned in excess of \$10 during the calendar year of termination will be refunded within 45 days of the date the state treasurer announces the interest rate for the preceding calendar year. Interest earned of \$10 or less during the calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

H. Rollovers

1. Rollovers among ESAs of the Same Account Owner

a. Beginning October 1, 2009, an account owner may rollover any part or all of the value of an ESA to another ESA if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. If the current value of an ESA is transferred, all EEs and earnings thereon shall be included in the transfer.

2. Rollover to another Qualified Tuition Program

a. An account owner may request a rollover of the current value of the account less EEs and earnings thereon to another qualified tuition program.

b. EEs and the earnings thereon allocated to an ESA that is rolled over to another qualified tuition program are forfeited.

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§313. Substitution, Assignment, and Transfer

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

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

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

3. if the substitute beneficiary is not a member of the family of the previous beneficiary:

a. and the account owner is a natural person classified under §303.A.1-5, the account must be refunded to the account owner and a new account must be opened;

b. and the account owner is a legal entity classified under §303.A.4 or 5, a new account shall be opened in the name of the new beneficiary; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the EEs and interest thereon for an account whose owner is classified under §303.A.4 will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

c. and the account owner is classified under §303.A.6, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §303.A.6; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the EEs and interest thereon will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

iii. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

B. Substitution/Transfer of Account Ownership. The ownership of an ESA is transferable only with the written approval of the LATTA and only as follows.

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, may designate a person who will become the substitute account owner in the event of the original account owner's death. Eligibility for EEs will be based on the substitute account owner's classification at the time of the original account owner's death.

2. In the event of the death of an account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, who has not named a substitute account owner, the account shall be terminated and the account shall be refunded to the beneficiary, if designated to receive the refund by the account owner, or the account owner's estate.

3. An account owner who is a legal entity classified under §303.A.4 or 5 may indicate in the owner's agreement that the account shall be transferred to the beneficiary of the account upon his 18th birthday, or upon his enrollment in an eligible postsecondary institution full time, whichever is later. If the account owner transfers the account in accordance with this section, disbursements may only be made for payment of the qualified higher education expenses of the beneficiary.

4. In the event of the dissolution of an account owner who is a legal entity classified as an account owner under §303.A.4 or 5, the beneficiary shall become the substitute account owner. If the account owner who is a legal entity classified as an account owner under §303.A.4 or 5 is dissolved, the beneficiary designated to receive the refund has died, and there is no substitute beneficiary named, the refund shall be made to the beneficiary's estate.

5. In the event of the death or dissolution of an other person classified as an account owner under §303.A.6, the beneficiary shall become the substitute account owner, provided that all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible educational institution by age 25, and no substitute beneficiary has been designated by the account owner, the LATTA shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

C. Assignment of Account Ownership. Ownership of an ESA cannot be assigned.

D. Changes to the Owner's Agreement

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001), LR 28:780 (April 2002), LR 30:791 (April 2004), LR 42:

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each account owner an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year;

b. total principal and interest accrued to the statement date; and

c. total EEs and interest thereon allocated to the account as of the statement date.

2. EEs shall be allocated annually and reported after March 1, following the account owners' required disclosure of their reported federal adjusted gross income for the year immediately preceding the year in which the beneficiary of the account is being considered for an EEs.

3. The account owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to account owners after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the fund as reported by the state treasurer and approved by the LATTA.

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

5. For the year ending December 31, 2001, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.33 percent.

6. For the year ending December 31, 2001, the Savings Enhancement Fund earned an interest rate of 6.38 percent.

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Savings Enhancement Fund earned an interest rate of 5.91 percent.

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Savings Enhancement Fund earned an interest rate of 5.17 percent.

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Savings Enhancement Fund earned an interest rate of 5.12 percent.

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Savings Enhancement Fund earned an interest rate of 4.92 percent.

15. For the year ending December 31, 2006, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.11 percent.

16. For the year ending December 31, 2006, the Savings Enhancement Fund earned an interest rate of 4.67 percent.

17. For the year ending December 31, 2007, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.28 percent.

18. For the year ending December 31, 2007, the Savings Enhancement Fund earned an interest rate of 5.25 percent.

19. For the year ending December 31, 2008, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.65 percent.

20. For the year ending December 31, 2008, the Savings Enhancement Fund earned an interest rate of 4.39 percent.

21. For the year ending December 31, 2009, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.22 percent.

22. For the year ending December 31, 2009, the Savings Enhancement Fund earned an interest rate of 3.08 percent.

23. For the year ending December 31, 2010, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.69 percent.

24. For the year ending December 31, 2010, the Savings Enhancement Fund earned an interest rate of 2.56 percent.

25. For the year ending December 31, 2011, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.53 percent.

26. For the year ending December 31, 2011, the Savings Enhancement Fund earned an interest rate of 2.47 percent.

27. For the year ending December 31, 2012, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.52 percent.

28. For the year ending December 31, 2012, the Savings Enhancement Fund earned an interest rate of 2.57 percent.

29. For the year ending December 31, 2013, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.168 percent.

30. For the year ending December 31, 2013, the Savings Enhancement Fund earned an interest rate of 1.715 percent.

31. For the year ending December 31, 2014, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.08 percent.

32. For the year ending December 31, 2014, the Savings Enhancement Fund earned an interest rate of 1.31 percent.

C. Refunded Amounts

1. Interest earned on an ESA which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTAs will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

D. Annual Report

1. The account owner of an ESA will be notified annually, in writing, of the following:

a. the maximum allowable account balance; and

b. the minimum recommended account balance which is an amount equal to five times the qualified higher education expenses for the eligible educational institution designated on the owner's agreement, projected to the date of the beneficiary's eighteenth birthday; or

2. If the account owner changes the institution designated on the owner's agreement, a revised minimum recommended account balance will be calculated and the account owner will be notified of any change.

E. Rule Changes. The LATTAs reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to account owners for public comment prior to the adoption of final rules.

F. Determination of Facts. The LATTAs shall have sole discretion in making a determination of fact regarding the application of these rules.

G. Individual Accounts. The LATTAs will maintain an individual account for each beneficiary, showing the redemption value of the account.

H. Confidentiality of Records. All records of the LATTAs identifying account owners and designated beneficiaries of ESAs, amounts deposited, expended or refunded, are confidential and are not public records.

I. No Investment Direction. No account owner or beneficiary of an ESA may direct the investment of funds credited to an account, except to make an annual election among investment options that offer fixed earnings, variable earnings or both. Deposits will be invested on behalf of the START Savings Program by the state treasurer.

J. No Pledging of Interest as Security. No interest in an ESA may be pledged as security for a loan.

K. Excess Funds

1. Principal deposits to an ESA are no longer accepted once the account total reaches the maximum allowable account balance (see §305.C); however, the principal and interest earned thereon may continue to earn interest and any EEs allocated to the account may continue to accrue interest.

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

L. Withdrawal of Funds. Funds may not be withdrawn from an ESA except as set forth in §309 and §311.

M. NSF Procedure

1. A check received for deposit to an ESA which is returned due to insufficient funds in the owner's account on which the check is drawn, will be redeposited and processed

a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer which is not honored by the financial institution on which it was drawn subsequent to the trade date shall be forfeited by the account owner and deposited into the Variable Earnings Transaction Fund.

N. Effect of a Change in Residency. On the date an account is opened, either the account owner or beneficiary must be a resident of the state of Louisiana (see §301.G); however, if the account owner or beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the owner's agreement.

O. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the beneficiary may experience reduced eligibility for aid from these programs.

P. Change in Projected School of Enrollment

1. The account owner may redesignate the beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's EE cap, the account owner will be notified.

Q. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

R. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

S. Variable Earnings Transaction Fund

1. Monies in the Variable Earnings Transaction Fund shall be used to pay any charges assessed to the START Saving Program by a financial institution and to pay any loss of value between the purchase and redemption of units in a variable earnings option that are incurred when a check or ACH transfer is dishonored after the trade date by the financial institution on which it was drawn.

2. After the payment of expenses as provided in Paragraph 1, above, the LATTA may declare monies remaining in the Variable Earnings Transaction Fund as surplus. Such surplus shall be appropriated to the Saving Enhancement Fund to be used as EEs.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492

(March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business 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 changes (ST15168NI) until 4:30 p.m., March 14, 2016, to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: START Saving Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may result in a nominal increase in state expenditures as a result of transferring account ownership under certain circumstances. The rule change allows account owners to transfer accounts to a beneficiary upon his/her 18th birthday or enrollment in a postsecondary institution full time. The exact increase is indeterminable since it will depend on the number of accounts created, amounts deposited and the number of accounts that have an ownership transfer. In addition, the proposed rule increases the maximum allowable account balance to \$500,000 from an amount that was previously formula driven and adds computer and computer related hardware as a qualified higher education expense. Finally the proposed rule makes technical changes as follows: moves independent student to a separate account category; modifies the account disbursement procedure; deletes the minimum monthly deposit estimate requirement; and makes grammatical, spelling, and numbering corrections. These proposed changes do not affect the earning or disbursement of Earning Enhancements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In some cases, the proposed changes may encourage the opening of START accounts, providing beneficiaries with funding to enroll in postsecondary education to pursue educational opportunities that will result in expanded employment choices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

Students with postsecondary training are more competitive in the job market and attract business to the state due to the availability of a more highly trained or educated workforce.

Robyn Rhea Lively
Senior Attorney
1602#004

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Division**

Electronic Submittal of
Discharge Monitoring Reports (DMRs)
(LAC 33:IX.2701)(WQ094)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2701 (WQ094).

This Rule will adopt the EPA federal regulation that requires NPDES regulated entities to submit discharge monitoring reports (DMRs) electronically through a department-approved electronic document receiving system unless granted an electronic reporting waiver. The basis and rationale are to comply with federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality**

**Subpart 2. The Louisiana Pollutant Discharge
Elimination System (LPDES) Program**

Chapter 27. LPDES Permit Conditions

§2701. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. - L.3. ...

4. Monitoring Reports

a. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be submitted through a department-approved electronic document receiving system in accordance with LAC 33:I.Chapter 21 unless the state administrative authority gives written authorization to the permittee to submit monitoring results in an alternative format.

i. Results of wastewater or effluent monitoring must be reported on a discharge monitoring report (DMR) EPA Form 3320-1, or an approved substitute. The results of

monitoring of sludge use or disposal practices shall be reported on forms specified or approved by the administrative authority.

ii. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 (see LAC 33:IX.4901) or, in the case of sludge use or disposal, approved under 40 CFR part 136 (see LAC 33:IX.4901) unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the state administrative authority.

iii. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the state administrative authority in the permit.

iv. Discharge monitoring reports shall be completed in accordance with the instructions on EPA Form 3320-1.

L.5. - N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431, 2512 (October 2005), LR 32:1220 (July 2006), LR 33:2168 (October 2007), LR 34:1887 (September 2008), amended by the Office of the Secretary, Legal Division, LR 42:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ094. Such comments must be received no later than April 6, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ094. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on March 30, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference

Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Electronic Submittal of
Discharge Monitoring Reports (DMRs)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change revises the Monitoring Reports requirements for Louisiana Pollutant Discharge Elimination System (LPDES) permits as a result of transitioning from paper submittals as the primary method of submission to electronic submittals. The proposed rule change is required to meet federal regulations. While there will be no cost or savings to the department, electronic submissions will allow the department to submit all data to the Environmental Protection Agency database and allow for more comprehensive data analysis by the enforcement division.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed rule will affect owners/operators of wastewater treatment facilities that are required to submit Discharge Monitoring Reports (DMRs). The primary method of submittal will change from paper submittals to electronic submittals. The benefits for facilities include saving money on postage and elimination of paper DMR submittals.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson
General Counsel
1602#017

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Division**

Recreational Water Quality Criteria for
Louisiana Coastal Beach Recreation Waters
(LAC 33:IX.107 and Chapter 11)(WQ092)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.107, 1105, 1113, 1117 and 1123.C.2.a and b, and E, Table 3 and ENDNOTE 25 (WQ092).

This update to the Louisiana surface water quality standards in LAC 33:IX.Chapter 11 will add definitions to Section 1105 to define *enterococci* and Beaches Environmental Assessment and Coastal Health (BEACH) Act waters. These definitions will also be added to LAC 33:IX.107. Additional revisions will be made to Chapter 11, Sections 1113, 1117, and 1123 to adopt enterococci criteria for Louisiana coastal beach recreation waters and to identify those subsegments containing coastal beach recreation waters (BEACH Act primary contact recreation waters).

Under federal regulations at 40 CFR 131.11(a)(1), a state is required to adopt water quality criteria protective of uses and based on sound scientific rationale. Louisiana, as a Beaches Environmental Assessment and Coastal Health (BEACH) Act state, has specific requirements with regard to recreational water quality criteria. Section 303(i)(1)(B) of the Clean Water Act (CWA), as amended by the BEACH Act, directs each state with coastal recreational waters to adopt and submit to the U.S. Environmental Protection Agency (USEPA) new or revised water quality standards for those waters for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable. Louisiana must adopt the new recreational water quality criteria by December 2015 or risk having the USEPA promulgate recreational water quality criteria for the state. The basis and rationale for this proposed Rule are to comply with the Clean Water Act, as amended by the Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 1. General Provisions

§107. Definitions

* * *

Enterococci—a group of fecal bacteria used as an indicator of fecal contamination and predictor of human illness.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1857 (October 2006), LR 33:2365 (November 2007), amended by the Office of the Secretary, Legal Division, LR 42:

Chapter 11. Surface Water Quality Standards

§1105. Definitions

* * *

Enterococci—a group of fecal bacteria used as an indicator of fecal contamination and predictor of human illness.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:456 (March 2007), LR 33:827 (May 2007), LR 35:445 (March 2009), amended by the Office of the Secretary, Legal Division, LR 40:2243 (November 2014), LR 42:

§1113. Criteria

A. - C.4.c. ...

5. Bacteria. The applicability of bacterial criteria to a particular subsegment depends upon the use designation and geographic location of the subsegment. Criteria are established to protect water quality to support the designated uses assigned to the subsegment. The most stringent applicable fecal coliform bacterial criteria for each individual Louisiana subsegment and the applicability of enterococci bacterial criteria for coastal primary contact recreation waters are outlined in the "BAC" column of Table 3, LAC 33:IX.1123.

a. Primary Contact Recreation. The primary contact recreation criteria shall apply only during the defined recreational period of May 1 through October 31. During the nonrecreational period of November 1 through April 30, the criteria for secondary contact recreation shall apply.

i. Enterococci. The indicator, enterococci, will be used for coastal marine waters, gulf waters to the state three-mile limit, coastal bays, estuarine waters, and adjacent subsegments with recreational beach waters. The enterococci geometric mean density shall not exceed 35 colonies/100 mL and no more than 10 percent of the individual samples in the data set shall exceed 130 enterococci colonies/100 mL. The interval of time for calculating the geometric mean and the 10 percent exceedance rate may be one month or greater, but shall not exceed three months.

ii. Fecal Coliform. The indicator, fecal coliform, will be used for subsegments without applicable enterococci criteria. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 400 colonies/100 mL.

5.b. - 6.f. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:1474 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007), LR 33:829 (May 2007), LR 35:446 (March 2009), amended by the Office of the Secretary, Legal Division, LR 42:

§1117. References

A. - A.12. ...

13. U.S. Environmental Protection Agency. October 10, 2000. Beaches Environmental Assessment and Coastal Health Act of 2000 (BEACH Act). Public Law 106-284.

14. U.S. Environmental Protection Agency. November 26, 2012. Recreational Water Quality Criteria. Office of Water. 820-F-12-058.

15. U.S. Environmental Protection Agency. July 31, 2014. *National Beach Guidance and Performance Criteria for Grants*, 2014 Edition. Office of Water. EPA-823-B-14-001.

16. *Webster's II New Riverside University Dictionary*, Anne H. Soukhanov, editor. 1988. Houghton Mifflin Company, Boston, MA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2403 (December 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:

§1123. Numerical Criteria and Designated Uses

A. - C.2.a. ...

* * *

b. The code number identified under the Numerical Criteria subheading "BAC" in Table 3 represents the most stringent bacterial criteria that apply to each individual subsegment. Where applicable, additional bacterial criteria also apply, depending on the designated uses of the subsegment and the geographic location of the subsegment. The specified numeric bacterial criteria for each designated use listed in this Paragraph can be found in LAC 33:IX.1113.C.

| Table 3. Numerical Criteria and Designated Uses | | | | | | | | | |
|--|---|-----------------|--------------------|-----------------|-----------------------------------|---------|--------|----|-----|
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; | | | | | | | | | |
| D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| Atchafalaya River Basin (01) | | | | | | | | | |
| * * * | | | | | | | | | |
| 010901 | Atchafalaya Bay and Delta and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 32 | N/A |
| Barataria Basin (02) | | | | | | | | | |
| * * * | | | | | | | | | |
| 020402 | Bayou Lafourche—From ICWW at Larose to Yankee Canal (Estuarine) | A B C | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 1 [25] | 32 | N/A |
| 020403 | Bayou Lafourche—From Yankee Canal and saltwater barrier to Gulf of Mexico (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 4 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 020601 | Intracoastal Waterway—From Bayou Villars to Mississippi River (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| * * * | | | | | | | | | |
| 020801 | Intracoastal Waterway—From Larose to Bayou Villars and Bayou Barataria (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 1 [25] | 35 | N/A |
| 020802 | Bayou Barataria and Barataria Waterway—From ICWW to Bayou Rigolettes (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 1 [25] | 35 | N/A |
| 020901 | Bayou Rigolettes and Bayou Perot to Little Lake (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 4 [25] | 35 | N/A |
| 020902 | Little Lake (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 020903 | Barataria Waterway (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 1 [25] | 35 | N/A |
| 020904 | Wilkinson Canal and Wilkinson Bayou (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 4 [25] | 35 | N/A |
| 020905 | Bayou Moreau (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 4 [25] | 35 | N/A |
| 020906 | Bay Rambo (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 020907 | Bay Sansbois, Lake Judge Perez, and Bay De La Cheniere (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 021001 | Lake Washington, Bastian Bay, Adams Bay, Scofield Bay, Coquette Bay, Tambour Bay, Spanish Pass, and Bay Jacques (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-8.5 | 4 [25] | 35 | N/A |
| 021101 | Barataria Bay; includes Caminada Bay, Hackberry Bay, Bay Batiste, and Bay Long (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 021102 | Barataria Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 32 | N/A |

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use;

D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
|--------------------------------------|--|-----------------|--------------------|-----------------|-----|---------|-----------|----|-------|
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| Calcasieu River Basin (03) | | | | | | | | | |
| * * * | | | | | | | | | |
| 030301 | Calcasieu River and Ship Channel—From saltwater barrier to Moss Lake; includes Ship Channel, Coon Island Loop, and Clooney Island Loop (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 030302 | Lake Charles | A B C | N/A | N/A | 5.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 030303 | Prien Lake | A B C | N/A | N/A | 5.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 030304 | Moss Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 030305 | Contraband Bayou (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 030306 | Bayou Verdine—south of the Houston River Canal to the Calcasieu River (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 030401 | Calcasieu River—From below Moss Lake to the Gulf of Mexico; includes Ship Channel and Monkey Island Loop (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.0-8.5 | 4 [25] | 35 | N/A |
| 030402 | Calcasieu Lake | A B C E | N/A | N/A | 5.0 | 6.0-8.5 | 4 [25] | 32 | N/A |
| 030403 | Black Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| * * * | | | | | | | | | |
| 030901 | Bayou D'Inde—From headwaters to Calcasieu River (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-8.5 | 1 [25] | 35 | N/A |
| 031001 | Bayou Choupique—From headwaters to ICWW (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 031002 | Intracoastal Waterway—From West Calcasieu River Basin boundary to Calcasieu Lock (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| * * * | | | | | | | | | |
| 031201 | Calcasieu River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.0-9.0 | 4 [25] | 32 | N/A |
| Lake Pontchartrain Basin (04) | | | | | | | | | |
| * * * | | | | | | | | | |
| 040803 | Tchefuncte River—From La. Highway-22 to Lake Pontchartrain (Estuarine) | A B C | 850 | 135 | 4.0 | 6.0-8.5 | 1 [25] | 30 | 1,850 |
| * * * | | | | | | | | | |
| 040902 | Bayou LaCombe—From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | 835 | 135 | 4.0 | 6.0-8.5 | 1 [25] | 32 | 1,850 |
| * * * | | | | | | | | | |
| 040904 | Bayou Cane—From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 040906 | Bayou Liberty—From La. Highway 433 to Bayou Bonfouca; includes Bayou de Chien (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 040908 | Bayou Bonfouca—From CDM Ecoregion boundary to Lake Pontchartrain (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 040910 | Salt Bayou—From headwaters to Lake Pontchartrain (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |

| Table 3. Numerical Criteria and Designated Uses | | | | | | | | | |
|---|--|-----------------|--------------------|-----------------|------------------------------|---------|-----------|----|------|
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; | | | | | | | | | |
| D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| 040911 | Grand Lagoon; includes associated canals (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 040913 | Bayou LaCombe—From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine) | A B C G | 835 | 135 | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 [25] | 32 | 1850 |
| 040914 | Bayou Cane—From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 040916 | Bayou Paquet—From headwaters to Bayou Liberty (Estuarine) | A B C | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 [25] | 32 | N/A |
| 040917 | Bayou Bonfouca—From La. Highway 433 to CDM Ecoregion boundary (Estuarine) | A B C | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 [25] | 32 | N/A |
| 041001 | Lake Pontchartrain—West of US-11 bridge (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 32 | N/A |
| 041002 | Lake Pontchartrain—East of US Highway 11 bridge (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 041201 | Bayou Labranche—From headwaters to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 [25] | 32 | N/A |
| 041202 | Bayou Trepagnier—From Norco to Bayou Labranche (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1 [25] | 32 | N/A |
| 041203 | Duncan Canal—From headwaters to Lake Pontchartrain; also called Parish Line Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-8.5 | 1 [25] | 32 | N/A |
| 041204 | Bayou Traverse—From headwaters to LMRAP Ecoregion boundary (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| 041301 | Bayou St. John (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| 041302 | Lake Pontchartrain Drainage Canals in Jefferson and Orleans Parishes (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| 041401 | New Orleans East Leveed Water Bodies (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| 041501 | Inner Harbor Navigation Canal—From Mississippi River Lock to Lake Pontchartrain (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 041601 | Intracoastal Waterway—From Inner Harbor Navigation Canal to Chef Menteur Pass (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 041701 | The Rigolets (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 32 | N/A |
| 041702 | Bayou Sauvage—From New Orleans hurricane protection levee to Chef Menteur Pass; includes Chef Menteur Pass (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 32 | N/A |
| 041703 | Intracoastal Waterway—From Chef Menteur Pass to Lake Borgne (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 32 | N/A |
| * * * | | | | | | | | | |
| 041801 | Bayou Bienvenue—From headwaters to hurricane gate at MRGO (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 041802 | Bayou Chaperon (Scenic)(Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 041803 | Bashman Bayou—From headwaters to Bayou Dupre (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use;

D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
|-----------------------------------|---|-----------------|--------------------|-----------------|-----|---------|--------|----|-----|
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| 041804 | Bayou Dupre—From Lake Borgne Canal to Terre Beau Bayou (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 041805 | Lake Borgne Canal—From Mississippi River siphon at Violet to Bayou Dupre; also called Violet Canal (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 041806 | Pirogue Bayou—From Bayou Dupre to New Canal (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 041807 | Terre Beau Bayou—From Bayou Dupre to New Canal (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 041808 | New Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| *** | | | | | | | | | |
| 041901 | Mississippi River Gulf Outlet (MRGO)—From ICWW to Breton Sound at MRGO mile 30 | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042001 | Lake Borgne | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042002 | Bayou Bienvenue—From Bayou Villere to Lake Borgne (Scenic) (Estuarine) | A B C E G | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042003 | Bayou La Loutre—From MRGO to Eloi Bay (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042004 | Bayou Bienvenue—From MRGO to Bayou Villere (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042101 | Bayou Terre Aux Boeufs (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042102 | River Aux Chenes; also called Oak River (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042103 | Bayou Gentilly—From Bayou Terre Aux Boeufs to Petit Lake (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| *** | | | | | | | | | |
| 042201 | Chandeleur Sound | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042202 | California Bay and Breton Sound | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042203 | Bay Boudreau | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042204 | Drum Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042205 | Morgan Harbor | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042206 | Eloi Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042207 | Lake Fortuna | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042208 | Bay Gardene, Black Bay, Lost Bayou, American Bay, and Bay Crabe | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 042209 | Lake Pontchartrain Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 32 | N/A |
| Mermentau River Basin (05) | | | | | | | | | |
| *** | | | | | | | | | |
| 050801 | Mermentau River—From Catfish Point Control Structure to Gulf of Mexico (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |

| Table 3. Numerical Criteria and Designated Uses | | | | | | | | | |
|--|---|------------------------|---------------------------|-----------------------|-----------|-----------|--------------|-----------|------------|
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; | | | | | | | | | |
| D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO₄ | DO | pH | BAC | °C | TDS |
| 050802 | Big Constance Lake; includes associated water bodies (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 050901 | Mermentau River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 32 | N/A |
| Vermilion-Teche River Basin (06) | | | | | | | | | |
| * * * | | | | | | | | | |
| 060803 | Vermilion River Cutoff—From ICWW to Vermilion Bay (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 060804 | Intracoastal Waterway—From Vermilion Lock to 1/2 mile west of Gum Island Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| * * * | | | | | | | | | |
| 060901 | Bayou Petite Anse—From headwaters to Bayou Carlin (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 060902 | Bayou Carlin—From Lake Peigneur to Bayou Petite Anse; also called Delcambre Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 060903 | Bayou Tigre—From headwaters to Bayou Petite Anse (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 060904 | New Iberia Southern Drainage Canal—From headwaters to ICWW (Estuarine) | A B L-[24] | N/A | N/A | [24] | 6.5-9.0 | [24] [25] | 35 | N/A |
| 060906 | Intracoastal Waterway—From New Iberia Southern Drainage Canal to Bayou Sale (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| * * * | | | | | | | | | |
| 060910 | Boston Canal; includes associated canals (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 060911 | Dugas Canal—By Tiger Lagoon Oil and Gas Field (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 061001 | West Cote Blanche Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 061002 | East Cote Blanche Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 061101 | Bayou Petite Anse—From Bayou Carlin at its confluence with Bayou Tigre to ICWW (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 061102 | Intracoastal Waterway—From 1/2 mile west of Gum Island Canal to New Iberia Southern Drainage Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 061103 | Freshwater Bayou Canal—From 1/2 mile below ICWW to control structure (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1 [25] | 35 | N/A |
| 061104 | Vermilion Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 061105 | Marsh Island (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 061201 | Vermilion-Teche River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.0-9.0 | 4 [25] | 32 | N/A |
| Mississippi River Basin (07) | | | | | | | | | |
| * * * | | | | | | | | | |
| 070401 | Mississippi River Passes—Head of Passes to Mouth of Passes; includes all passes in the birdfoot delta (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| * * * | | | | | | | | | |
| 070601 | Mississippi River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 32 | N/A |

Table 3. Numerical Criteria and Designated Uses

A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use;

D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters

| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
|----------------------------------|---|-----------------|--------------------|-----------------|-----------------------------------|---------|-----------|----|-------|
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| Ouachita River Basin (08) | | | | | | | | | |
| *** | | | | | | | | | |
| Pearl River Basin (09) | | | | | | | | | |
| *** | | | | | | | | | |
| 090103 | East Pearl River—From I-10 to Lake Borgne (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| *** | | | | | | | | | |
| 090208 | Little Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| *** | | | | | | | | | |
| Red River Basin (10) | | | | | | | | | |
| *** | | | | | | | | | |
| Sabine River Basin (11) | | | | | | | | | |
| *** | | | | | | | | | |
| 110301 | Sabine River—From Old River below Sabine Island WMA to Sabine Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 110302 | Black Bayou—From Pirogue Ditch to Sabine Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 32 | N/A |
| 110303 | Sabine Lake (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.0-8.5 | 4 [25] | 35 | N/A |
| 110304 | Sabine Pass (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| *** | | | | | | | | | |
| 110601 | Vinton Waterway—From Vinton to ICWW (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 110602 | Black Bayou—From ICWW to Pirogue Ditch (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1 [25] | 35 | N/A |
| 110701 | Sabine River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 32 | N/A |
| Terrebonne Basin (12) | | | | | | | | | |
| *** | | | | | | | | | |
| 120502 | Bayou Grand Caillou—From Bayou Pelton to Houma Navigation Canal (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 4 [25] | 35 | N/A |
| *** | | | | | | | | | |
| 120504 | Bayou Petit Caillou—From LA-24 bridge to Boudreaux Canal (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.0-9.0 | 4 [25] | 32 | N/A |
| *** | | | | | | | | | |
| 120506 | Bayou Du Large—From Marmande Canal to 1/2 mile north of St. Andrews Mission (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.0-9.0 | 4 [25] | 35 | N/A |
| 120507 | Bayou Chauvin—From Ashland Canal to Lake Boudreaux (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 1 [25] | 32 | N/A |
| 120508 | Houma Navigation Canal—From Bayou Pelton to 1 mile south of Bayou Grand Caillou (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 4 [25] | 35 | N/A |
| *** | | | | | | | | | |
| 120601 | Bayou Terrebonne—From Houma to Company Canal (Estuarine) | A B C | 445 | 105 | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.0-9.0 | 1 [25] | 32 | 1,230 |

| Table 3. Numerical Criteria and Designated Uses | | | | | | | | | |
|---|---|-----------------|--------------------|-----------------|-----------------------------------|---------|-----------|----|--------|
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; | | | | | | | | | |
| D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| Code | Stream Description | Designated Uses | Numerical Criteria | | | | | | |
| | | | CL | SO ₄ | DO | pH | BAC | °C | TDS |
| 120602 | Bayou Terrebonne—From Company Canal to Humble Canal (Estuarine) | A B C E | 5,055 | 775 | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 4 [25] | 32 | 10,000 |
| * * * | | | | | | | | | |
| 120605 | Bayou Pointe Au Chien—From headwaters to St. Louis Canal | A B C | 445 | 105 | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 1 [25] | 32 | 1,000 |
| 120606 | Bayou Blue—From Grand Bayou Canal to Bully Camp Canal (Estuarine) | A B C | 5,055 | 775 | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 1 [25] | 32 | 10,000 |
| 120701 | Bayou Grand Caillou—From Houma Navigation Canal to Caillou Bay (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120702 | Bayou Petit Caillou—From Boudreaux Canal to Houma Navigation Canal (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.0-9.0 | 4 [25] | 32 | N/A |
| 120703 | Bayou Du Large—From 1/2 mile north of St. Andrews Mission to Caillou Bay (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.0-9.0 | 4 [25] | 35 | N/A |
| 120704 | Bayou Terrebonne—From Humble Canal to Lake Barre (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.; 5.0 Sept.-Mar. | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120705 | Houma Navigation Canal—From 1/2 mile south of Bayou Grand Caillou to Terrebonne Bay (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120706 | Bayou Blue—From Bully Camp Canal to Lake Raccourci (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.5-9.0 | 4 [25] | 35 | N/A |
| * * * | | | | | | | | | |
| 120708 | Lost Lake and Four League Bay | A B C E | N/A | N/A | 5.0 | 6.0-9.0 | 4 [25] | 35 | N/A |
| 120709 | Bayou Petite Caillou—From Houma Navigation Canal to Terrebonne Bay | A B C E | N/A | N/A | 3.8 June-Aug.; 4.0 Sept.-May | 6.0-9.0 | 4 [25] | 32 | N/A |
| 120801 | Caillou Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120802 | Terrebonne Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120803 | Timbalier Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120804 | Lake Barre | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120805 | Lake Pelto | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 35 | N/A |
| 120806 | Terrebonne Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4 [25] | 32 | N/A |

ENDNOTES:

- [1]. - [24]. ...
- [25]. Enterococci criteria apply to subsegment from May through October to protect primary contact recreation (see LAC 33:IX.1113.C.5.a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431

(April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010), amended by the Office of the Secretary, Legal Division, LR 41:2603 (December 2015), LR 42:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ092. Such comments must be received no later than April 6, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ092. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on March 30, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Recreational Water Quality Criteria for Louisiana Coastal Beach Recreation Waters

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in an estimated increase in expenditures of \$42,840 for the Louisiana Department of Environmental Quality (LDEQ) on an annual basis. The department will plan to utilize existing resources within a federal grant to pay for the monitoring costs. These grant funds are expected to be redirected from other monitoring activities for this purpose. In addition, the proposed rule change may result in an increase in expenditures of \$71,640 for certain state and local governmental units. The proposed rule change adds enterococci criteria to the water quality criteria requirements. The rule change applies to in-stream surface waters to protect public health. LDEQ will need to collect additional in-stream data to determine attainment of the new enterococci pathogen criteria. The estimated annual LDEQ assessment monitoring cost includes analytical, supplies, shipping, handling, record keeping, and other administrative costs.

The rule does not directly require additional monitoring by permitted state or local governmental units. However, should the department determine that permitted facilities must monitor for the enterococci pathogen indicator in their effluent to ensure protection of public health, the projected total cost for affected local and state governmental units is \$71,640. The potential cost is based on the wastewater permit for each entity. The type of permit determines the frequency of monitoring for each entity. To the extent additional monitoring is needed for a certain entity, the cost will be \$60 per sample.

At the time estimates were prepared, the potential increase would affect 65 local governmental units at an estimated cost of \$69,600. The potential increase in expenditures would affect 6 state departments and agencies at an estimated cost of \$2,040. The expenditure increase would affect the following: Department of Transportation and Development, Department of Wildlife and Fisheries, Department of Culture, Recreation and Tourism, Louisiana Universities Marine Consortium, McNeese State University and Louisiana Technical College.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change does not affect local governmental units. However, the proposed rule change does affect the Department of Health and Hospitals' (DHH) ability to receive federal funds for the department's Beach Monitoring Program. To the extent LDEQ does not adopt water quality criteria for coastal recreation waters, EPA indicated that DHH would no longer receive the federal funding for beach monitoring. The federal grant awarded to DHH for the Beach Monitoring Program is estimated to be \$306,000 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in costs and benefits to directly affected persons or non-governmental groups. The rule does not directly require additional monitoring by permitted non-governmental entities. However, should the department determine that permitted facilities must monitor for the enterococci pathogen indicator in their effluent to ensure protection of public health, the projected total cost for affected non-governmental entities is \$153,120 for an estimated 1,101

non-governmental entities. The potential cost is based on the wastewater permit for each entity. The type of permit determines the frequency of monitoring for each entity.

Currently there is only one lab accredited to conduct enterococci pathogen analysis for LDEQ required monitoring. This rule does not directly require an additional lab to become accredited; however, additional accredited labs would improve monitoring data quality by reducing sample hold time exceedances. The cost estimates for an in-state laboratory to become accredited are \$1,190 for initial costs and \$580 annually thereafter. The cost estimates for an out-of-state laboratory to become accredited for Louisiana are \$5,990 for initial costs and \$580 annually thereafter.

The annual economic benefit of the rule to private laboratories equals the estimated cost of annual assessment monitoring which is \$42,840. Additionally, if LDEQ determines permit effluent monitoring is needed to monitor protection of public health and if permitted facilities used the services of private laboratories that benefit would be more than \$200,000 annually for all permitted facilities.

There is a non-quantifiable economic benefit of having an additional pathogen indicator which will provide increased public health protection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule revisions.

Herman Robinson
General Counsel
1602#018

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Crime Victims Reparations Board

Compensation to Victims (LAC 22:XIII.303 and 503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 3. Eligibility and Application Process

§303. Application Process

A. Claimant Responsibility

1. ...

2. Applications

a. - b. ...

c. Victims of sexual assault may assign their right to collect medical expenses associated with the sexual assault to a hospital/health care facility. The hospital/health care facility may then apply for reparations.

A.3. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of

Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended by the Office of the Governor, Crime Victims Reparations Board, LR 41:1668 (September 2015), LR 42:

Chapter 5. Awards

§503. Limits on Awards

A. - L.1. ...

M. Crime Scene Evidence

1. - 1.c. ...

2. Medical Examination of Sexual Assault Victims

a. Costs of the forensic medical examination are reimbursable by the Crime Victims Reparations Board (CVR Board) under this Section and payable directly to the healthcare provider who provides the service. All other expenses related to victims of sexual assault are reimbursable by the board subject to the maximum permitted by law and the provisions of the Crime Victims Reparations Act and its administrative rules.

b. - d. ...

3. Healthcare providers shall be reimbursed for expenses associated with providing a forensic medical exam in the same amount as provided for in the Medicare fee schedule for the Louisiana region. The total amount reimbursable to all providers per forensic medical exam shall in no case exceed \$1000.

N. - O.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR 37:1605 (June 2011), LR 39:1042 (April 2013), LR 41:1668 (September 2015), LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. This proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it only clarifies the procedures for applying for reparations.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through post-secondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirement 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 on this proposed Rule no later than April 7, 2016 at 5 p.m. to Bob Wertz, Louisiana Commission on Law Enforcement, P.O. Box 3133, Baton Rouge, LA 70821.

Ann Polak
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Compensation to Victims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in an indeterminable net increase in expenditures from the statutorily dedicated Crime Victims Reparation (CVR) Fund, which is funded by fees associated with criminal court cases. Pursuant to Act 229 of 2015, claim benefits have been expanded for victims of sexually-oriented criminal offenses, allowing victims to assign their rights to reparations for services related to forensic medical exams (FMEs) to health care providers who may perform them). Health care providers may then bill the Crime Victim Reparations Board for any services related to FMEs using the Louisiana Medicare fee schedule for a reimbursable maximum of up to \$1,000 per case.

The LA Commission on Law Enforcement will fund expenses related to forensic medical examinations through monies collected from unclaimed gaming winnings at casinos and race tracks throughout Louisiana, pursuant to Act 186 of 2015. Funds generated from unclaimed gaming winnings will be deposited in the CVR Fund. The Joint Legislative Committee on the budget appropriated \$1.5 M in budget authority for the purpose of funding FMEs at its October 2015 meeting. Based on the number of reported sexual assault offenses in prior years, the number of victims of sexual assault could be approximately 1,600 claims annually.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will increase federal grant awards beginning in FY 16. The dollar amount of federal grant funding allotted annually to the Louisiana Commission on Law Enforcement (LCLE) through the Office for Victims of Crime (OVC) via the Victims of Crime Act (VOCA) is contingent upon the dollar amount of state funds which the agency expends for crime victims in the preceding year. For every dollar spent in a particular fiscal year on reparations for crime victims OVC will appropriate sixty cents of VOCA funding in the ensuing fiscal year. Therefore, increased state expenditures on health care services related to FMEs will generate additional federal funding for the agency in the next fiscal year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will allow victims of sexual assault and healthcare providers to directly access healthcare benefits related to treatment for personal injury, and the ancillary medical costs of a forensic medical examination at the rates outlined in the Louisiana Medicare fee schedule up to a reimbursable maximum of \$1,000 from unclaimed gaming winnings remitted to the CVR Fund. To the extent claims related to FMEs are greater than the amount of remittances to

the CVR Fund from unclaimed gaming winnings, claimants may have to wait until sufficient funds are available before receiving their awards for reparations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of the proposed rule change.

James Craft
Executive Director
1602#025

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

Advertising and Soliciting by Dentists and Complaints and Investigation (LAC 46:XXXIII.301 and 801)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.301 and 801.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.301 to clarify the rule by giving the example that dentists are prohibited to advertise using the term "state of the art sterilization" when state of the art sterilization is required of all dentists

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.801 to provide that complaints against licensees, other than complaints based on advertising, must be in writing and signed unless the board president and one other board member agree that an unsigned or oral complaint suggests a potential for significant harm to the public. A record of unsigned or oral complaints accepted in this manner is to be kept by the board. In addition, the Louisiana state Board of Dentistry is amending LAC 46:XXXIII.801 to also provide that the licensee who is the subject of the complaint is to receive a copy of the complaint no later than the time that the disciplinary committee reviewing the complaint receives a copy, unless the board president believes that there are good reasons for not providing a copy of the complaint to the licensee.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - E.5. ...

6. advertises any procedure mandated or prohibited by law, such as advertising that a dentist has "state of the art sterilization," when state of the art sterilization is required of all dentists;

E.7. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of

Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 30:2305 (October 2004), LR 32:243 (February 2006), LR 37:2150 (July 2011), LR 42:

Chapter 8. Complaints, Investigation, and Informal Resolution

§801. Complaints and Investigation

A. Complaints to the board about licensees or about individuals practicing without a license must be in writing to be considered by the board. Complaints, other than complaints involving advertising violations, must also be signed by the person filing the complaint. However, the board president has the discretion to accept an anonymous complaint or oral complaint when the complaint, in the board president's judgement with the agreement of one other board member, appears to indicate a significant potential for harm to the public. The board shall keep a record of the number of complaints per year, other than advertising complaints, that were accepted despite being anonymous and/or oral. This record of the number of anonymous and/or oral complaints accepted shall be kept in accordance with the board's record retention schedule, and shall be considered a public record, although details about the complaints are not public records and shall remain privileged and confidential pursuant to applicable statutes. Complaints can come from any source, including but not limited to the general public, board members and governmental agencies or their contractors.

B. - D. ...

E. The subject of the complaint will be provided with a copy of the complaint no later than the date on which the complaint is provided to the DOC unless the board president, in his discretion, determines that:

1. providing the complaint to the subject would jeopardize a board investigation, in which case a copy of the complaint will be provided once the board president determines that providing the complaint would no longer jeopardize any investigation, but in any event, no later than the date of any informal hearing on the matter; or

2. the board president, in his discretion feels that there is good cause to keep the identity of the complainant confidential, in which case a detailed summary of the facts of the complaint shall be provided, withholding any information that might reveal the identity of the complainant.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:56 (January 2016), amended LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comment

Interested persons may submit written comments on these proposed Rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Advertising and Soliciting by Dentists and Complaints and Investigation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost of \$500 in FY 16 for publication of the proposed rules in the State Register. There are no estimated costs or savings to local governmental units from these proposed rule changes. The proposed rule change to LAC 46:XXXIII.301 clarifies that inclusion of the phrase "state of the art sterilization" is prohibited in advertising by dentists because state of the art sterilization is required of all dentists.

Additionally, the proposed rule changes to LAC 46:XXXIII.801 clarify the types of complaints that are acceptable and provide that the licensees who are the subject of the complaints will now receive a copy of the complaint, in most circumstances. The proposed rule changes will require a very minimal increase in paperwork for the Louisiana State Board of Dentistry in processing complaints dealing with advertising by dentists. These complaints will now be sent to

the dentist, whereas in the past the dentist typically did not receive a copy prior to being reviewed by a disciplinary oversight committee. There are approximately ten (10) such complaints per year. There will be a minimal increase in costs associated with postage. Otherwise, there is no effect on costs or workload as a result of the proposed rule changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections caused by the proposed changes to the rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition and employment as a result of the proposed rule changes.

Arthur F. Hickham, Jr.
Executive Director
1602#078

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Clinical Laboratory Personnel, Licensure and
Certification (LAC 46:XLV.3519)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270 and the Louisiana clinical laboratory personnel law, R.S. 37:1311-1329, the board intends to amend §3519.A and B of its clinical laboratory personnel rules to reduce from one year to six months the total time that an individual otherwise qualified for clinical laboratory personnel licensure may practice under a temporary license (temporary license and renewed temporary license) without having taken and passed the licensing examination. The proposed amendments are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 35. Clinical Laboratory Personnel

**Subchapter B. Licensure and Certification Requirements
§3519. Temporary License or Certificate**

A. Generally. Applicants that qualify by education, experience, or training but have not taken or passed an approved nationally recognized certification examination may be granted a temporary license or temporary certificate that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level (CLS-G,

CLS-S, CLS-T, cytotechnologist, or phlebotomist). The temporary license or certificate will be valid for three months.

B. Failure to Pass Examination; Renewal. A temporary license or temporary certificate issued pursuant to this Section may be renewed one time upon failure to pass an approved nationally recognized certification examination. Such renewal shall be effective for three months. Applicants who fail to pass the appropriate approved nationally recognized certification examination a second time may not renew their temporary license or temporary certificate. Such applicants shall:

B.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994), amended LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., March 21, 2016.

Public Hearing

If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on March 28, 2016 at 9 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to

attend should call to confirm that a hearing is being held. A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Clinical Laboratory Personnel,
Licensure and Certification**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the rule publication costs during FY16, it is not anticipated that the proposed rule changes will impact costs or savings to the Board of Medical Examiners or any state or local governmental unit. Publication costs associated with such notice (\$213) and promulgation (\$106) are estimated at a combined total of \$319 in FY 16. The Board proposes to amend Section 3519(A) and 3519(B) of its Clinical Laboratory Personnel Rules to reduce from one year to six months the total time that an individual otherwise qualified for clinical laboratory personnel licensure may practice under a temporary license (temporary license and renewed temporary license) without having taken and passed the licensing examination. The rule that the Board proposes to amend was adopted when examinations were taken in written form and processed manually. For a number of years such examinations have been available electronically, thereby increasing examination access and reducing the time required for registration and processing of examination results. The proposed changes will still allow an applicant multiple examination attempts during the proposed reduced period.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

It is not anticipated that the proposed changes will affect paperwork or workload of applicants for clinical laboratory personnel licensure and/or income of licensees or non-governmental groups. However, the proposed changes may, to an extent that the Board cannot estimate, have an adverse economic impact on a small number of applicants who do not attempt or pass the licensing examination during the proposed reduced span of a temporary license. It is anticipated that any such applicants will be few in number.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is not anticipated that the proposed changes will have any material impact on competition or employment in either the public or private sector. However, the window to achieve a passing grade on the licensing exam for Clinical Lab Personnel will shrink from 12 months to 6 months, and failure to achieve licensure may result in an impact for those individuals to maintain employment in a clinical laboratory.

Cecilia Mouton, M.D.
Executive Director
1602#016

Evan Brasseaux
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Health and Hospitals
Board of Nursing**

Permission to Enroll or Progress in Undergraduate
Clinical Nursing Courses (LAC 46:XLVII.3324)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is adding a new section to Chapter 33. The new section is 3324 and will focus on student enrollment in undergraduate clinical nursing courses. Section 3324 will outline the required expectations and consequences for nursing students' enrollment and/ or progression of enrollment. These procedures are currently implemented under Title 46, Professional and Occupational Standards, Part XLVII Chapter 35. Nursing Education Programs, Section 3517 Student Selection and Guidance.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered
Nurses
Subpart 2. Registered Nurses
Chapter 33. General
Subchapter C. Registration and Registered Nurse
Licensure**

**§3324. Permission to Enroll or Progress in
Undergraduate Clinical Nursing Courses**

A. Approval by the board is required prior to student enrollment in undergraduate clinical nursing courses.

B. Requirements to enroll/progress in clinical nursing courses include:

1. evidence of good moral character;
2. eligibility for admission to clinical nursing courses at a program approved by the board;
3. verification of eligibility for admission by the chief nurse administrator or designee of the administrative nursing unit;
4. a complete application form to include the permission to obtain criminal history record information as specified in LAC 46:XLVII.3330, fees and costs as may be incurred by the board in requesting and obtaining state and national criminal history record information on the applicant and remittance of the required fee as specified in LAC 46:XLVII.3341 prior to the deadline date established by the board;
5. freedom from violations of R.S. 37:911 et seq., or of grounds for delay/denial of permission to enroll in clinical nursing courses as specified in LAC 46:XLVII.3331 or other administrative rules;
6. freedom from acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46 XLVII.3403 and 3405; or if found guilty of committing such acts or omissions, the board finds, after investigation, that sufficient restitution, rehabilitation, and education has occurred.

C. Applicants who falsify the application or fail to disclose information that should have been reported to the board will be denied enrollment/progression in clinical nursing courses and will not be eligible to resubmit an application until completion of the disciplinary process. Falsifying an application shall result in denial of permission to enroll in clinical nursing courses or application for licensure as a registered nurse in Louisiana for a minimum of five years.

D. Approval to enroll/progress expires upon 12 months if not enrolled in clinical nursing courses.

E. Evidence of violation of R.S. 37:911 et seq. or of grounds for denial or delay of approval to enroll in clinical nursing courses as specified in LAC 46 XLVII.3331 or acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46 XLVII.3403 and 3405 shall result in immediate denial to progress in clinical nursing courses until completion of the disciplinary process.

F. Incidents which constitute grounds for disciplinary action that occur after initial approval is granted and which may affect progression in clinical nursing courses shall be immediately disclosed on the clinical nursing student disclosure form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 42:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

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 not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on 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 not have an 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 on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before March 10, 2016.

Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Permission to Enroll or Progress in Undergraduate Clinical Nursing Courses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than publication costs associated with the proposed rule changes, which are estimated to be \$320 in FY 16, it is not anticipated that state or local governmental units will incur any other costs or savings as a result of promulgation of the proposed rule. The proposed rule requires approval by the board prior to student enrollment in undergraduate clinical nursing courses. The proposed rule outlines required expectations and consequences for nursing students in the enrollment and/or progression in clinical nursing courses. These procedures are currently implemented under Title 46, Professional and Occupational Standards, Part XLVII Chapter 35. Nursing Education Programs, Section §3517 Student Selection and Guidance. The board seeks to clarify expectations related to student enrollment and progression by proposing rule 3324. The newly created section will consolidate information related to enrollment or progression in undergraduate clinical nursing courses. This rule does not require an increase or decrease in workload responsibilities to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to result in costs and/or economic benefits to any person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Karen C. Lyon
Executive Director
1602#058

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Greater New Orleans Community Health Connection
Waiver Termination
(LAC 50:XXII.Chapters 61-69)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:XXII.Chapters 61-69 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act on July 1, 2016 or upon the implementation of Medicaid expansion under the provisions of the Affordable Care Act (ACA). 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 a demonstration program under the authority of a Section 1115 Waiver, called the Greater New Orleans Community Health Connection (GNOCHC) Waiver to ensure continued access to primary and behavioral health care services that were restored and expanded in the greater New Orleans area post Hurricanes Katrina and Rita (*Louisiana Register*, Volume 38, Number 3).

The Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act (SSA) provided states with the flexibility to expand Medicaid coverage to a new mandatory adult group not currently eligible for Medicaid benefits by designing alternative Medicaid benefit packages under their Medicaid State Plan. There are many options available to states in selecting an Alternative Benefit Plan (ABP) and designing an enhanced benefits package to cover targeted populations to appropriately meet their needs.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has directed states who wish to expand Medicaid coverage under the provisions of ACA to submit State Plan amendments (SPAs) to secure approval to implement Medicaid expansion. In compliance with CMS' directive and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the newly eligible adult group. The department will submit the corresponding SPAs to CMS upon meeting the technical requirements for public notice and undergoing the federally-approved tribal consultation process.

In light of the expansion of Medicaid coverage in the Medicaid Program, the department has determined that it is necessary to terminate coverage under the GNOCHC Waiver and transition these individuals to coverage under the ABP. Hence, the department hereby proposes to repeal the provisions governing the GNOCHC Waiver in order to terminate coverage under the §1115 waiver authority, effective July 1, 2016 or upon the implementation of Medicaid expansion under the provisions of the Affordable Care Act (ACA).

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 7. Greater New Orleans Community Health Connection Waiver

Chapter 61. General Provisions

§6101. Purpose

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 38:820 (March 2012), repealed LR 42:

§6103. Program Design

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 38:820 (March 2012), repealed LR 42:

Chapter 63. Eligibility

§6301. General Provisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:820 (March 2012), repealed LR 42:

§6303. Recipient Qualifications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:820 (March 2012), LR 39:3297 (December 2013), repealed LR 42:

Chapter 65. Services

§6501. Covered Services

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:821 (March 2012), repealed LR 42:

§6503. Service Delivery

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 38:821 (March 2012), repealed LR 42:

Chapter 67. Provider Participation

§6701. General Provisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:821 (March 2012), repealed LR 42:

§6703. Reporting Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:822 (March 2012), repealed LR 42:

Chapter 69. Reimbursement

§6901. General Provisions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:822 (March 2012), repealed LR 42:

§6903. Reimbursement Methodology

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 38:822 (March 2012), LR 39:3297 (March 2013), repealed 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.

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 since GNOCHC waiver recipients will be transitioned to coverage under Medicaid expansion.

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 since GNOCHC waiver recipients will be transitioned to coverage under Medicaid expansion.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, March 31, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Greater New Orleans Community
Health Connection—Waiver Termination**

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 \$0 in FY 15-16, \$6,823,585 for FY 16-17 and \$1,165,831 for FY 17-18. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16 and 62.26 percent in FY 16-17.

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 \$0 for FY 15-16, \$11,256,926 for FY 16-17 and \$1,923,281 for FY 17-18. It is anticipated that \$378 will be expended in FY 15-16 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 17-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule repeals the provisions governing the Greater New Orleans Community Health Connection (GNOCHC) Waiver in order to terminate this optional Medicaid program. The terms and conditions of the GNOCHC Waiver require termination Care Act. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by of the waiver concurrent with the implementation of Medicaid coverage for the new adult group provided by the Affordable approximately \$0 for FY 15-16, \$18,080,511 for FY 16-17 and \$3,089,112 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jen Steele
Interim Medicaid Director
1602#067

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Managed Care for Physical and Behavioral Health
Expansion under the Affordable Care Act
(LAC 50:I.3103, 3301, 3507 and 3509)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3103, §3301, §3507 and §3509 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 Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act (SSA) provides states with the option to expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the federal poverty level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has directed states that wish to expand Medicaid coverage to the new adult group to submit State Plan amendments (SPAs) to secure approval for implementation. In compliance with CMS' directive and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new adult group, and to enroll these individuals in Bayou Health managed care organizations. The department will submit the corresponding SPAs to CMS upon meeting the technical requirements for public notice and undergoing the federally-approved tribal consultation process.

The department now proposes to amend the provisions governing managed care for physical and behavioral health to enroll the new adult group into Bayou Health managed care organizations (MCOs). Recipients who enroll with a health plan will have their Medicaid covered services coordinated through Bayou Health.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3103. Recipient Participation

A. - A.1.h. ...

i. former foster care children eligible under §1902(a)(10)(A)(i)(IX) and (XVII) of the Act;

j. individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program; or

k. individuals from age 19 to 65 years old at or below 133 percent of the federal poverty level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.

B. - H.1.c. ...

d. have a limited period of eligibility and participate in either the Spend-Down Medically Needy Program or the Emergency Services Only program; or

e. receive services through the Take Charge Plus program.

f. Repealed.

I. ...

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 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:

§3105. Enrollment Process

A. - G.3. ...

a. Special Provisions for Medicaid Expansion. Individuals enrolled in the Take Charge Plus and/or the Greater New Orleans Community Health Connection (GNOCHC) Waiver program upon implementation of the new adult group will be auto assigned to an MCO by the enrollment broker as provided for in the automatic assignment process defined in §3105.H-H.3.

4. ...

a. Special Provisions for Medicaid Expansion. Individuals transferred from Take Charge Plus and/or GNOCHC will be given 90 days to change plans without cause following auto assignment to an MCO upon implementation of the new adult group.

G.5. - K.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1574 (June 2011), amended LR 40:310 (February 2014), LR 40:1097 (June 2014), LR 41:929 (May 2015), LR 41:2364 (November 2015), LR 42:

Chapter 33. Coordinated Care Network Shared Savings Model

§3301. Participation Requirements

A. - 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 37:1577 (June 2011), amended LR 41:932 (May 2015), LR 42:

Chapter 35. Managed Care Organization Participation Criteria

§3507. Benefits and Services

A. - D.36. ...

37. other services as required which incorporate the benefits and services covered under the Medicaid State Plan, including the essential health benefits provided in 42 CFR 440.347.

NOTE. - H.5. ...

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 37:185 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:936 (May 2015), LR 41:2367 (November 2015), LR 42:

§3509. Reimbursement Methodology

A. - A.1. ...

2. As the Bayou Health Program matures and fee-for-service, shared savings and LBHP data are no longer available, there will be increasing reliance on Bayou Health managed care organization encounter data and/or financial data to set future rates, subject to comparable adjustments.

3. ...

4. Capitation rates will be risk-adjusted for the health of Medicaid enrollees enrolled in the MCO as appropriate.

A.4.a. - N.2.a. ...

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 37:1587 (June 2011), amended LR 39:92 (January 2013), repromulgated LR 39:318 (February 2013), LR 41:937 (May 2015), LR 41:2367 (November 2015), 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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by providing families with better coordination of their total health care services and increasing the quality and continuity of care for the individual and the entire family.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families through better coordinated health care services and increased continuity of care.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, March 31, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge,

LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Managed Care for Physical and Behavioral Health Expansion under the Affordable Care Act**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that the implementation of the proposed rule will result in a net state general fund impact of between \$37 M in savings and \$30 M in costs over the three years reflected in the rule. This net impact includes administrative and program costs, program savings and premium tax revenues. Exclusive of premium tax revenues, it is estimated that the rule will result in a state general fund cost between \$53.5 M (\$3.8 M Total) and \$108.7 M (\$4.8 M Total) over the three years reflected in the rule. The range is largely based on a difference in the rate at which eligible individuals enroll in Medicaid and the Per Member Per Month (PMPM) cost per eligible individual. The specific net impact (SGF and Total) itemized below in this rule is based on 463,536 enrolling in Medicaid by FY 19 (of approximately 726,000 projected to be eligible), a cost per eligible individual that does not include supplemental payments (Full Medicaid Payment), a 15 percent reduction in DSH payments, a 3 percent annual growth rate for the PMPM cost, and a significant savings associated with certain current Medicaid recipients whose costs will be eligible for the enhanced federal match rate with expansion. Any changes from the assumptions could result in a material fiscal impact. It is anticipated that the implementation of this proposed rule will result in the following impact on state general funds:

FY 15-16

1. Estimated state general fund administrative costs of \$2,999,458;

2. Promulgation costs of \$540 (\$270 SGF and \$270 FED) for this proposed rule and the final rule

Total FY 15-16 cost: \$2,999,728

FY 16-17

1. Estimated state general fund administrative costs of \$13,976,879;

2. Estimated state general fund programmatic costs of \$68,388,574 for Managed Care Organization Payments;

3. Estimated state general fund programmatic savings of \$65,956,003 for refinanced programmatic expenditures and DSH payment reductions

Total FY 16-17 cost: \$16,409,450

Total FY 16-17 net savings (including premium tax revenues): \$9,963,148

FY 17-18

1. Estimated state general fund administrative costs of \$14,952,636;

2. Estimated state general fund programmatic costs of \$158,692,263 for Managed Care Organization Payments;

3. Estimated state general fund programmatic savings of \$139,530,614 for refinanced programmatic expenditures and DSH payment reductions

Total FY 17-18 cost: \$34,114,285

Total FY 17-18 net savings (including premium tax revenues): \$29,972,176

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in the following impact on revenue collections:

FY 15-16

1. Increase federal revenue collections by approximately \$7,318,130 for administrative costs;

2. Increase other revenue collections (provider donations through statutory dedicated funding) by approximately \$2,999,458 to fund the required state match for administrative costs;

3. Increase federal revenue collections by approximately \$270 for the federal share of promulgation costs for this proposed rule and the final rule

Total FY 15-16 Revenue Collections: \$10,317,858

FY 16-17

1. Increase federal revenue collections by approximately \$24,793,987 for administrative costs and \$1,815,174,258 for programmatic costs;

2. Reduce federal revenue collections by approximately \$114,981,077 for refinanced programmatic expenditures and DSH payment reductions

3. Increase other revenue collections (premium tax revenues) by approximately \$26,372,598 which will be used to fund the required state match for programmatic and administrative costs;

Total FY 15-16 Revenue Collections: \$1,751,359,765

FY 17-18

1. Increase federal revenue collections by approximately \$26,387,143 for administrative costs and \$2,271,127,904 for programmatic costs;

2. Reduce federal revenue collections by approximately \$236,357,740 for refinanced programmatic expenditures and DSH payment reductions

3. Increase other revenue collections (premium tax revenues) by approximately \$64,086,462 which will be used to fund the required state match for programmatic and administrative costs;

Total FY 15-16 Revenue Collections: \$2,125,243,769

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing managed care for physical and behavioral health to enroll the new adult group into Bayou Health managed care organizations. It is anticipated that implementation of this proposed rule will increase programmatic expenditures (inclusive of administrative costs) in the Medicaid Program by \$10,317,588 in FY 15-16, \$1,741,396,617 in FY 16-17 and \$2,095,271,593 in FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule may have a positive effect on competition and employment. Medicaid expansion in Louisiana is expected to increase the gross state product which will foster an increase in economic activity, including an increase in revenue for providers and health care partners. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities. Medicaid expansion may also potentially increase the competition between managed care organizations and participating providers.

Jen Steele
Interim Medicaid Director
1602#068

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

Medicaid Eligibility
Expansion under the Affordable Care Act
(LAC 50:III.2317)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:III.2317 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 Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act (SSA) provides states with the option to expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the federal poverty level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has directed states that wish to expand Medicaid coverage to this new adult group to submit state plan amendments (SPAs) to secure approval for implementation. In compliance with CMS' directive and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing Medicaid eligibility to adopt provisions in the Medicaid Program to expand coverage to the new adult group. The department will submit the corresponding SPAs to CMS upon meeting the technical requirements for public notice and undergoing the federally-approved tribal consultation process.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2317. New Adult Eligibility Group

A. Pursuant to the Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of title XIX of the Social Security Act, the department will expand Medicaid coverage to a targeted new eligibility group, hereafter referred to as the new adult group.

B. Effective July 1, 2016, the department will establish a new Medicaid eligibility category for the new adult group, as defined in §1905(y)(2)(A) of title XIX of the Social Security Act.

C. Eligibility Requirements. Coverage in the new adult group will be provided to individuals with household income up to 133 percent of the federal poverty level with a 5 percent income disregard who are:

1. from age 19 to 65 years old;
2. not pregnant;

3. not entitled to, or enrolled in Medicare Part A or Medicare Part B; and

4. not otherwise eligible for and enrolled in mandatory coverage under the Medicaid State Plan.

a. Parents, children or disabled persons receiving Supplemental Security Income (SSI) benefits are excluded from enrollment as a new adult.

D. Covered Services. The new adult group will be provided with a benefit package which incorporates the benefits and services covered under the Medicaid State Plan including essential health benefits as provided in §1302(b) of ACA effective July 1, 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 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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by expanding Medicaid coverage to a new targeted adult eligibility group.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden for health care costs for certain families who may qualify under the newly eligible adult group.

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, March 31, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge,

LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid Eligibility Expansion under the Affordable Care Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that the implementation of the proposed rule will result in a net state general fund impact of between \$37 M in savings and \$30 M in costs over the three years reflected in the rule. This net impact includes administrative and program costs, program savings and premium tax revenues. Exclusive of premium tax revenues, it is estimated that the rule will result in a state general fund cost between \$53.5 M (\$3.8 M Total) and \$108.7 M (\$4.8 M Total) over the three years reflected in the rule. The range is largely based on a difference in the rate at which eligible individuals enroll in Medicaid and the Per Member Per Month (PMPM) cost per eligible individual. The specific net impact (SGF and Total) itemized below in this rule is based on 463,536 enrolling in Medicaid by FY 19 (of approximately 726,000 projected to be eligible), a cost per eligible individual that does not include supplemental payments (Full Medicaid Payment), a 15 percent reduction in DSH payments, a 3 percent annual growth rate for the PMPM cost, and a significant savings associated with certain current Medicaid recipients whose costs will be eligible for the enhanced federal match rate with expansion. Any changes from the assumptions could result in a material fiscal impact. It is anticipated that the implementation of this proposed rule will result in the following impact on state general funds:

FY 15-16

1. Estimated state general fund administrative costs of \$2,999,458;
2. Promulgation costs of \$540 (\$270 SGF and \$270 FED) for this proposed rule and the final rule
Total FY 15-16 cost: \$2,999,728

FY 16-17

1. Estimated state general fund administrative costs of \$13,976,879;
2. Estimated state general fund programmatic costs of \$68,388,574 for Managed Care Organization Payments;
3. Estimated state general fund programmatic savings of \$65,956,003 for refinanced programmatic expenditures and DSH payment reductions
Total FY 16-17 cost: \$16,409,450
Total FY 16-17 net savings (including premium tax revenues): \$9,963,148

FY 17-18

1. Estimated state general fund administrative costs of \$14,952,636;
2. Estimated state general fund programmatic costs of \$158,692,263 for Managed Care Organization Payments;
3. Estimated state general fund programmatic savings of \$139,530,614 for refinanced programmatic expenditures and DSH payment reductions

Total FY 17-18 cost: \$34,114,285
Total FY 17-18 net savings (including premium tax revenues): \$29,972,176

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in the following impact on revenue collections:

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1. Increase federal revenue collections by approximately \$7,318,130 for administrative costs;
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3. Increase federal revenue collections by approximately \$270 for the federal share of promulgation costs for this proposed rule and the final rule

Total FY 15-16 Revenue Collections: \$10,317,858

FY 16-17

1. Increase federal revenue collections by approximately \$24,793,987 for administrative costs and \$1,815,174,258 for programmatic costs;
2. Reduce federal revenue collections by approximately \$114,981,077 for refinanced programmatic expenditures and DSH payment reductions;
3. Increase other revenue collections (premium tax revenues) by approximately \$26,372,598 which will be used to fund the required state match for programmatic and administrative costs;

Total FY 15-16 Revenue Collections: \$1,751,359,765

FY 17-18

1. Increase federal revenue collections by approximately \$26,387,143 for administrative costs and \$2,271,127,904 for programmatic costs;
2. Reduce federal revenue collections by approximately \$236,357,740 for refinanced programmatic expenditures and DSH payment reductions
3. Increase other revenue collections (premium tax revenues) by approximately \$64,086,462 which will be used to fund the required state match for programmatic and administrative costs;

Total FY 15-16 Revenue Collections: \$2,125,243,769

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing Medicaid eligibility to adopt provisions in the Medicaid program to expand coverage to the new adult group under the provisions of the Affordable Care Act. It is anticipated that implementation of this proposed rule will increase programmatic expenditures (inclusive of administrative costs) in the Medicaid Program by \$10,317,588 in FY 15-16, \$1,741,396,617 in FY 16-17 and \$2,095,271,593 in FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule may have a positive effect on competition and employment. Medicaid expansion in Louisiana is expected to increase the gross state product which will foster an increase in economic activity, including an increase in revenue for providers and health care partners. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities. Medicaid expansion may also potentially

increase the competition between managed care organizations and participating providers.

Jen Steele
Interim Medicaid Director
1602#069

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Medicaid Expansion under the Affordable Care Act
(LAC 50:I.Chapters 101-103)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:I.Chapters 101-103 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 Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of Title XIX of the Social Security Act (SSA) provides states with the option to expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the federal poverty level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.

Under the provisions of §1937 of the SSA, state Medicaid programs have the option to provide enrollees with “benchmark” or “benchmark-equivalent” coverage based on one of three commercial insurance products, or a fourth Secretary-approved coverage option which can include the Medicaid State Plan benefit package offered in their state. “Benchmark” benefits are those that are at least equal to one of the statutorily specified benchmark plans, and “benchmark-equivalent” are those benefits that include certain specified services, and the overall benefits are at least actuarially equivalent to one of the statutorily specified benchmark coverage packages. Federal regulations under ACA also stipulate that the packages must cover essential health benefits as designated in §1302(b) of ACA which includes 10 specific benefit categories.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has directed states that wish to expand Medicaid coverage to the new adult group to submit state plan amendments (SPAs) to secure approval for implementation. In compliance with CMS’ directive and federal regulations, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions in the Medicaid Program to: 1) expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the federal poverty level with a 5 percent income disregard as provided in 42 CFR 435.119; 2) implement a secretary-approved coverage option which incorporates the benefits and services covered under the Medicaid State Plan, including the essential health benefits as provided in §1302(b) of ACA; 3) use the Basic Blue Cross/Blue Shield Preferred Provider Option offered through the Federal Employees Health Benefit program as the state’s benchmark benefit package; and 4) establish

provisions for the use of the Supplemental Nutrition Assistance Program (SNAP) option for streamlined enrollment of SNAP recipients who meet eligibility requirements for the new adult group. The department will submit the corresponding SPAs to CMS upon meeting the technical requirements for public notice and undergoing the federally-approved tribal consultation process.

The department hereby proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new adult group, and to establish these provisions in Title 50, Part I of the *Louisiana Administrative Code*. This proposed Rule is also being promulgated to satisfy federal public notice requirements.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 11. Medicaid Expansion under the Affordable Care Act

Chapter 101. Alternative Benefit Plan

§10101. General Provisions

A. Pursuant to the Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), and §1937 of title XIX of the Social Security Act, the department shall expand Medicaid coverage to individuals from age 19 to 65 years old at or below 133 percent of the federal poverty level with a 5 percent income disregard as provided in 42 CFR 435.119, hereafter referred to as the new adult group.

B. Effective July 1, 2016, the department will expand Medicaid coverage to the new adult group, as defined in §1905(y)(2)(A) of title XIX of the Social Security Act, and provide a secretary-approved coverage option, hereafter referred to as the Alternative Benefit Plan (ABP), which incorporates the benefits and services covered under the Medicaid State Plan, including the essential health benefits as provided in §1302(b) of ACA. The department will utilize a federally-approved benchmark benefit package to ensure that the ABP includes benefits that are appropriate to meet the needs of the new adult group.

1. *Benchmark*—coverage is based on benefits that are at least equivalent to one of the federally statutorily specified benchmark plans.

C. The Basic Blue Cross/Blue Shield Preferred Provider Option offered through the Federal Employees Health Benefit program (FEHBP) will be the benchmark plan used to design the ABP for the state.

D. The ABP shall provide coverage of essential health benefits pursuant to federal regulations in §1302(b) of ACA.

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:

§10103. Benefits and Services

A. Minimum Essential Health Benefits. Pursuant to §1302(b) of ACA, the ABP must provide the new adult group with a benchmark benefit or benchmark-equivalent benefit package that includes the required minimum essential health benefits (EHBs) provided in Affordable Insurance Exchanges. There are 10 benefit categories and some of the categories include more than one type of benefit. The following services are considered EHBs:

1. ambulatory patient services;

2. emergency services;
3. hospitalization;
4. maternity and newborn care;
5. mental health and substance use disorder services, including behavioral health treatment:
 - a. these services shall be in accordance with the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008;
6. prescription drugs;
7. rehabilitative and habilitative services and devices;
8. laboratory services;
9. preventive services and chronic disease management; and
10. pediatric services, including oral and vision care.

a. The requirements of this service category are met through the Early and Periodic Screening, Diagnosis and Treatment Program.

B. Enrollees shall receive the full range of benefits and services covered under the ABP state plan amendment. The ABP package will incorporate the benefits and services covered under the Medicaid State Plan, including the essential health benefits as provided in §1302(b) of ACA.

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:

Chapter 103. Supplemental Nutrition Assistance Program Enrollment Option

§10301. General Provisions

A. Effective July 1, 2016, the department may use the Supplemental Nutrition Assistance Program (SNAP) option for streamlined enrollment of SNAP recipients who meet eligibility requirements for the new adult group.

B. In the event the SNAP enrollment option is used, the Medicaid program will not conduct a separate modified adjusted gross income (MAGI) based income determination on SNAP participants. The department will utilize the gross income determination provided by SNAP to make the financial eligibility determination.

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:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by expanding Medicaid coverage to a new targeted adult eligibility group.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973

by reducing the financial burden for health care costs for certain families who may qualify under the newly eligible adult group.

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, March 31, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Expansion under the Affordable Care Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the implementation of the proposed rule will result in a net state general fund impact of between \$37 M in savings and \$30 M in costs over the three years reflected in the rule. This net impact includes administrative and program costs, program savings and premium tax revenues. Exclusive of premium tax revenues, it is estimated that the rule will result in a state general fund cost between \$53.5 M (\$3.8 M Total) and \$108.7 M (\$4.8 M Total) over the three years reflected in the rule. The range is largely based on a difference in the rate at which eligible individuals enroll in Medicaid and the Per Member Per Month (PMPM) cost per eligible individual. The specific net impact (SGF and Total) itemized below in this rule is based on 463,536 enrolling in Medicaid by FY 19 (of approximately 726,000 projected to be eligible), a cost per eligible individual that does not include supplemental payments (Full Medicaid Payment), a 15 percent reduction in DSH payments, a 3 percent annual growth rate for the PMPM cost, and a significant savings associated with certain current Medicaid recipients whose costs will be eligible for the enhanced federal match rate with expansion. Any changes from the assumptions could result in a material fiscal impact. It is anticipated that the implementation of this proposed rule will result in the following impact on state general funds:

FY 15-16

1. Estimated state general fund administrative costs of \$2,999,458;

2. Promulgation costs of \$540 (\$270 SGF and \$270 FED) for this proposed rule and the final rule

Total FY 15-16 cost: \$2,999,728

FY 16-17

1. Estimated state general fund administrative costs of \$13,976,879;

2. Estimated state general fund programmatic costs of \$68,388,574 for Managed Care Organization Payments;

3. Estimated state general fund programmatic savings of \$65,956,003 for refinanced programmatic expenditures and DSH payment reductions

Total FY 16-17 cost: \$16,409,450

Total FY 16-17 net savings (including premium tax revenues): \$9,963,148

FY 17-18

1. Estimated state general fund administrative costs of \$14,952,636;

2. Estimated state general fund programmatic costs of \$158,692,263 for Managed Care Organization Payments;

3. Estimated state general fund programmatic savings of \$139,530,614 for refinanced programmatic expenditures and DSH payment reductions

Total FY 17-18 cost: \$34,114,285

Total FY 17-18 net savings (including premium tax revenues): \$29,972,176

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in the following impact on revenue collections:

FY 15-16

1. Increase federal revenue collections by approximately \$7,318,130 for administrative costs;

2. Increase other revenue collections (provider donations through statutory dedicated funding) by approximately \$2,999,458 to fund the required state match for administrative costs;

3. Increase federal revenue collections by approximately \$270 for the federal share of promulgation costs for this proposed rule and the final rule

Total FY 15-16 Revenue Collections: \$10,317,858

FY 16-17

1. Increase federal revenue collections by approximately \$24,793,987 for administrative costs and \$1,815,174,258 for programmatic costs;

2. Reduce federal revenue collections by approximately \$114,981,077 for refinanced programmatic expenditures and DSH payment reductions

3. Increase other revenue collections (premium tax revenues) by approximately \$26,372,598 which will be used to fund the required state match for programmatic and administrative costs;

Total FY 16-17 Revenue Collections: \$1,751,359,765

FY 17-18

1. Increase federal revenue collections by approximately \$26,387,143 for administrative costs and \$2,271,127,904 for programmatic costs;

2. Reduce federal revenue collections by approximately \$236,357,740 for refinanced programmatic expenditures and DSH payment reductions

3. Increase other revenue collections (premium tax revenues) by approximately \$64,086,462 which will be used to fund the required state match for programmatic and administrative costs;

Total FY 17-18 Revenue Collections: \$2,125,243,769

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule proposes to adopt provisions in the Medicaid Program to expand Medicaid coverage to the new

adult group under the provisions of the Affordable Care Act. It is anticipated that implementation of this proposed rule will increase programmatic expenditures (inclusive of administrative costs) in the Medicaid Program by \$10,317,588 in FY 15-16, \$1,741,396,617 in FY 16-17 and \$2,095,271,593 in FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule may have a positive effect on competition and employment. Medicaid expansion in Louisiana is expected to increase the gross state product which will foster an increase in economic activity, including an increase in revenue for providers and health care partners. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities. Medicaid expansion may also potentially increase the competition between managed care organizations and participating providers.

Jen Steele
Interim Medicaid Director
1602#070

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Public Registry of Motion Picture
Investor Tax Credit Brokers
(LAC 61:III.2701)

Under the authority of R.S. 15:587, R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6007 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2701.

The primary purpose of this proposed regulation is to create a Public Registry of Motion Picture Investor Tax Credit Brokers as required by Act 451 of the 2015 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 27. Transferable Income and Franchise Tax Credits

§2701. Public Registry of Motion Picture Investor Tax Credit Brokers

A. This Section is applicable to all persons or persons employed by or representing an entity engaged in the sale or brokerage of motion picture investor tax credits which are granted, issued or authorized by the state pursuant to R.S. 47:6007.

B. Definitions

Department—Louisiana Department of Revenue.

Secretary—the Secretary of the Department of Revenue.

Seller or Broker—

a. any person or person employed by or representing an entity engaged in the sale or brokerage of motion picture investor tax credits whose duties include the sale or brokerage of motion picture investor tax credits individually or on behalf of the entity. A seller or broker includes any person or person employed by or representing

an entity when the person or entity meets any of the following criteria: The person or entity:

i. holds himself/herself/itself out to be engaged in the business of selling or brokering motion picture investor tax credits; or

ii. has a history of frequent, regular, and repeated sales of motion picture investor tax credits; or

iii. did not purchase the credits at issue for his/her/its own personal use. Any person failing to meet any of the above-mentioned criteria shall be presumed a non-seller or non-broker and thus not subject to the requirements of R.S. 47:6007(C)(7).

b. Further, the entity which earns the motion picture investor credit pursuant to R.S. 47:6007, its affiliates or taxpayer members which receive tax credits via allocation, as verified by department Form R-6135 and R-6140, shall be deemed non-sellers or non-brokers and shall not be subject to the requirements of R.S. 47:6007(C)(7). Every person who meets any of the above-provided requirements shall be subject to the requirements of R.S. 47:6007(C)(7).

C. Initial Registration. Beginning January 1, 2016, all sellers or brokers of motion picture investor tax credits shall apply for the registry and be deemed qualified after meeting the requirements of R.S. 47:6007(C)(aa)-(cc) and undergoing a criminal history background examination by the Louisiana Bureau of Criminal Identification and Information as provided for in R.S. 15:587(A)(1)(h) at the expense of the applicant. Applicants for the registry shall follow the procedure for registration as provided below in Subsection D. However, no seller or broker shall be prevented from transferring motion picture investor tax credits until the effective date of this regulation.

1. Any person deemed qualified to sell or broker motion picture investor tax credit shall be included in the public registry of motion picture investor tax credit brokers, which shall be maintained by the department and made available on its website, www.revenue.la.gov/brokerregistry.

2. No person may sell or broker motion picture investor tax credits on or after the effective date of this regulation without first qualifying for and being included on the public registry of motion picture investor tax credit brokers. All transfers made on or after the effective date of this regulation by a person subject to the requirements of R.S. 47:6007(C)(7) who is not listed on the public registry of motion picture investor tax credits shall be inoperable and of no legal effect and any such transfers shall be deemed ineligible for registration in the Louisiana tax credit registry established pursuant to R.S. 47:1524. Further, failure to so qualify and register with the Department prior to selling or brokering tax credits issued pursuant to R.S. 47:6007 shall be punishable by a fine of not more than \$10,000 or imprisonment at hard labor for not more than five years, or both. In addition to the foregoing penalties, a person convicted under the provisions of R.S. 47:6007(C)(7) shall be ordered to make full restitution to any person who has suffered a financial loss as a result of this offense. If a person ordered to make restitution is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's ability to pay.

3. Any person who is determined to no longer be in compliance with the requirements of R.S. 47:6007(C)(7) and

LAC 61:III.2701(C) after initial qualification may be removed from the public registry of motion picture investor tax credit brokers and prohibited from thereafter engaging in the transfer, sale or brokerage of motion picture investor tax credits.

D. Procedure for Registration. Applicants seeking to register with the public registry of motion picture tax credit brokers must follow the below procedures:

1. Submit a completed Form R-6130, public registry of motion picture tax credit brokers, from the LDR website via either e-mail to TaxCredit.Registry@la.gov or mail to:

Louisiana Department of Revenue
Attn: Tax Credit Registry
P.O. Box 1071
Baton Rouge, LA 70821

2. Upon receipt of a completed Form R-6130, the LDR will send the applicant an LDR completed Louisiana State Police (LSP) authorization form and rap disclosure form to the applicant provided e-mail or address. The bottom portion of both forms should be completed and signed by the applicant. Both forms and payment must be presented to LSP when requesting a background check in person or via mail.

3. Applicants seeking registration have two options for obtaining the required fingerprint-based background check. They are as follows.

a.i. Electronically submit fingerprints at the Louisiana State Police Headquarters facility located at 7919 Independence Boulevard, Baton Rouge, LA 70806. Applicants must present the following for completion of the background check:

(a). payment of all applicable fees, including fingerprint fee and processing fee, via credit card, business check, cashier's check, or money order. Contact the LSP for details.

(b). a completed LSP authorization form.

(c). a completed LSP rap disclosure form.

ii. A response from the LSP is typically generated in 3-5 business days. Upon receipt of this information, a final determination from the LDR is typically generated in an additional 3-5 business days.

b.i. Obtain fingerprint cards from one of the listed law enforcement locations -<http://www.myfbireport.com/locations/lawEnforcement/LA.php> and mail the request for background check with all completed documents and fees to the below address:

Louisiana State Police
Criminal Records
P.O. Box 66614
Baton Rouge, LA 70896

ii. The request must contain the following items:
(a). two sets of original fingerprints with all required information fields completed on the card;

(b). payment of all applicable fees, including fingerprint fee and processing fee, via credit card, business check, cashier's check, or money order. Contact the LSP for details;

(c). a completed LSP authorization form;

(d). a completed LSP rap disclosure form.

iii. A response from the LSP is typically generated in 15-21 business days from the date payment is entered into the LSP receipt system. Upon receipt of this information, a final determination from the LDR is typically generated in an additional 3-5 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587(1)(h), R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 42:

Family Impact Statement

The proposed adoption of LAC 61:III.2701, regarding the creation of the Public Registry of Motion Picture Investor Tax Credit Brokers, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed regulation will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed regulation will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed regulation to Brad Blanchard, Attorney Supervisor, 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., March 24, 2016. A public hearing will be held on March 28, 2016, at 10 a.m. in the La Belle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Registry of Motion Picture Investor Tax Credit Brokers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule implements the procedures the Department of Revenue (LDR) will use to administer the Public Registry of Motion Picture Tax Credit Brokers in conformity with Act 451

of the 2015 Regular Session. The registry will be created and maintained by LDR and made available publicly on its website.

When Act 451 was under debate, LDR indicated that a general fund position requiring a new appropriation of about \$60,000 annually would be required to implement and administer the new registry. However, under the proposed rule, LDR indicates that implementing and administering the new registry will require a small, indeterminable amount of resources that will be absorbed by LDR's existing budget allocation using self-generated revenue.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule does not change the availability of film credits or the means by which they are claimed. The rule may allow a more thorough screening process under which some film credits may not change hands, though there is no way to determine whether this action would prevent the transfer or force the transfer through other means. Thus, there is no direct revenue impact associated with this bill as it appears to be a measure more in keeping the program participants in good standing than disqualifying credits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Broker qualifications include no prior convictions for matters related to tax, credit or fraud, and prohibit registration by a family member of an Office of Entertainment Industry Development (OEID) or LDR employee or those employed by OEID in the prior 2 years. Registrants must submit and pay for a criminal background check by the Louisiana Bureau of Criminal Identification and Information, who will also query the Federal Bureau of Investigation. A person selling or brokering film tax credits without registering shall be fined up to \$10,000 or imprisoned for 5 years or both with full restitution for any financial loss as a result of not registering.

Sellers or brokers of motion picture investment tax credits will be required to undergo a background screening and to apply for registry in the Public Registry of Motion Picture Tax Credit Brokers at their own expense. The Louisiana State Police has indicated the fingerprinting and background search will cost \$50.75 per applicant. Without this expense, individuals will no longer be eligible to broker motion picture tax credits. LDR estimates there are less than 20 brokers currently selling credits in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Kimberly L. Robinson
Secretary
1602#038

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Examinations and Continuing Professional Development
(LAC 46:LXI.707, 1301, and Chapter 31)

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.707, 1301, 3103, 3105, 3109, 3111, 3113, 3115, 3119 and 3121.

This is a technical revision of existing rules under which LAPELS operates. The revisions: (a). eliminate the requirement that applications to take the principles and practice of land surveying and Louisiana laws of land surveying examinations must be received by the board by certain dates; (b). remove the ability of the board to pre-approve individuals, firms and certain educational institutions as continuing professional development sponsor/providers; (c). change the continuing professional development requirements from a biennial licensure renewal period basis to a calendar year basis; and (d). permit licensees to obtain continuing professional development credit for serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXI. Professional Engineers and Land Surveyors

Chapter 7. Bylaws

§707. Board Organization

A. - E.10. ...

11. Continuing Professional Development Committee. The chairman of the board shall appoint a continuing professional development committee composed of not less than two board members. The continuing professional development committee shall review and make recommendations to the board regarding continuing professional development rules and policies.

12. - 13. ...

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 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:2788 (December 2007), LR 35:1908 (September 2009), LR 37:2411 (August 2011), LR 38:2563 (October 2012), LR 40:1388 (July 2014), LR 42:

Chapter 13. Examinations

§1301. General

A.1. - C.1. ...

2. To be considered for the following examinations, the application for the examination must be submitted to NCEES:

- a. fundamentals of engineering; and
- b. fundamentals of land surveying.

3. To be considered for a specific examination date, the application for the principles and practice of engineering examination must be received at the board office no later than December 1 for the April examination administration and June 1 for the October examination administration.

4. To be considered for the following examinations, the application for the examination must be submitted to the board:

- a. principles and practice of land surveying; and
- b. Louisiana laws of land surveying.

D. - F.2. ...

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 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), 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 27:1030 (July 2001), LR 30:1714 (August 2004), LR 35:1909 (September 2009), LR 37:2413 (August 2011), repromulgated 37:2752 (September 2011), amended LR 38:2565 (October 2012), LR 39:2282 (August 2013), LR 42:

Chapter 31. Continuing Professional Development (CPD)

§3103. Definitions

A. Terms used in this Chapter are defined as follows.

* * *

Board-Approved Sponsor/Provider—the Louisiana Engineering Society; the Louisiana Society of Professional Surveyors; professional and technical engineering or land surveying societies; federal, state or local governmental agencies; and colleges or universities. All sponsors/providers must conduct courses which will enhance and improve a licensee's professional development as a professional engineer or a professional land surveyor, and/or serve to safeguard life, health and property and promote the public welfare.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 42:

§3105. Requirements

A. During each biennial licensure renewal period beginning before January 1, 2017, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 30 PDHs in engineering related activities. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 15 PDHs per calendar year in engineering related activities. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, professional engineer licensees may not obtain more than 8 PDHs within a single calendar day.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of four PDHs per calendar year shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

B. During each biennial licensure renewal period beginning before January 1, 2017, every professional land surveyor licensee is required to obtain 15 PDHs in land surveying related activities. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, every professional land surveyor licensee is required to obtain 8 PDHs per calendar year in land surveying related activities.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of two PDHs shall be earned in the Standards of Practice for Boundary Surveys in Louisiana. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of one PDH per calendar year shall be earned in the Standards of Practice for Boundary Surveys in Louisiana.

C. During each biennial licensure renewal period beginning before January 1, 2017, each dual licensee shall obtain 30 PDHs; however, at least one-third of the PDHs shall be obtained separately for each profession. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, each dual licensee shall obtain 15 PDHs per calendar year; however, at least one-third of the PDHs for each calendar year shall be obtained separately for each profession.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of two PDHs

shall be earned in the Standards of Practice for Boundary Surveys in Louisiana. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of one PDH per calendar year shall be earned in the Standards of Practice for Boundary Surveys in Louisiana.

3. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of four PDHs per calendar year shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

D. Excess PDHs

1. Effective for biennial licensure renewal periods beginning before January 1, 2017, if a licensee exceeds the biennial licensure renewal period requirements, a maximum of 15 PDHs may be carried forward into the subsequent biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, if a licensee exceeds the annual requirements, a maximum of 5 PDHs may be carried forward into the subsequent calendar year.

D.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 37:2420 (August 2011), LR 42:

§3109. Exemptions

A. A licensee may be exempt from the CPD requirements for any one or more of the following reasons.

1. ...

2. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees serving on active duty in the armed forces of the United States for a period of time exceeding 180 consecutive days in a biennial licensure renewal period shall be exempt from obtaining the PDHs required during that biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees serving on active duty in the armed forces of the United States for a period of time exceeding 180 consecutive days in a calendar year shall be exempt from obtaining the PDHs required during that calendar year.

3. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees experiencing physical disability, serious illness, or serious injury of a nature and duration which has prevented the licensee from completing his/her CPD requirements for the past renewal period may be exempted from CPD requirements for said renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees experiencing physical

disability, serious illness, or serious injury of a nature and duration which has prevented the licensee from completing his/her CPD requirements for the past calendar year may be exempted from CPD requirements for said calendar year. Supporting documentation such as a letter from a physician who has treated the disability, illness or injury is required. This letter shall be on the letterhead of the physician and set forth the nature of the disability, illness or injury and the period of time under treatment by the physician, and contain a statement by the physician as to any limitations placed upon the licensee which would limit his ability to complete any type of CPD. Effective for biennial licensure renewal periods beginning before January 1, 2017, this exemption may be granted for one biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, this exemption may be granted for one calendar year. Additional exemptions for medical reasons may be granted on a case-by-case basis.

4. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees working outside of the United States for more than 180 days in a biennial licensure renewal period where the completion of CPD is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from CPD requirements for the period of time the licensee is in the foreign location. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees working outside of the United States for more than 180 days in a calendar year where the completion of CPD is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from CPD requirements for the period of time the licensee is in the foreign location. Supporting documentation of the foreign assignment must be provided by the employer on the employer's letterhead or by other documentation satisfactory to the board. The letter shall at a minimum set forth both the location and the period of time the person has been in the foreign location.

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 42:

§3111. Determination of Credit

A. PDHs may be earned as indicated in §3113 for the following acceptable activities:

1. - 6. ...

7. formal, documented problem preparation for NCEES or state professional exams;

8. serving as thesis directors for students pursuing a masters or doctoral degree in engineering; and

9. serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 37:2420 (August 2011), LR 39:1481 (June 2013), LR 42:

§3113. Units

A. - A.3. ...

B. Effective for biennial licensure renewal periods beginning before January 1, 2017, PDH credit will be awarded as follows:

1. - 6. ...

7. serving as thesis directors for students pursuing a masters or doctoral degree in engineering=1 PDH per hour of thesis credit. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for each such thesis director;

8. serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying=1 PDH per fifty contact minutes of attendance at committee meetings. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for service on all of such committees.

C. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, PDH credit will be awarded as follows:

1. fifty contact minutes of instruction or verified attendance at an activity, or problem preparation for a NCEES or state professional exam = one PDH. A maximum of 5 PDHs will be allowed per calendar year for problem preparation;

2. membership in engineering and land surveying professional associations or technical societies=one PDH per calendar year for each professional or technical association or society. A maximum of two PDHs will be allowed per calendar year for all such memberships;

3. in accordance with §3111.A.1-3, credit for teaching or making presentations may be earned at twice the PDHs allowed for attending a course, but shall not exceed 15 PDHs in any calendar year;

4. authoring and publishing peer reviewed (refereed) articles/papers in engineering or land surveying journals; or authoring and publishing peer reviewed (refereed) books related to engineering or land surveying=10 PDHs;

5. authoring and publishing non-peer reviewed (nonrefereed) articles/papers in engineering or land surveying journals=5 PDHs;

6. each patent=10 PDHs;

7. serving as thesis directors for students pursuing a masters or doctoral degree in engineering=1 PDH per hour of thesis credit. A maximum of 5 PDHs will be allowed per calendar year for each such thesis director;

8. serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying=1 PDH per 50 contact minutes of attendance at committee meetings. A maximum of 5 PDHs will be allowed per calendar year for service on all of such committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1732 (August 2004), LR 37:2421 (August 2011), LR 39:1481 (June 2013), LR 42:

§3115. Record Keeping

A. - B. ...

C. Maintaining records to be used to support PDHs claimed is the responsibility of the licensee. Effective for biennial licensure renewal periods beginning before January 1, 2017, these records must be maintained for at least three consecutive biennial licensure renewal periods (six years) and copies may be requested by the board at any time. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, these records must be maintained for at least six consecutive calendar years and copies may be requested by the board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:

§3119. Failure to Comply

A. ...

B. Effective for biennial licensure renewal periods beginning before January 1, 2017, CPD hours acquired and used to satisfy a not-in-compliance situation may not be used to meet the CPD hours required for the current licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, CPD hours acquired and used to satisfy a not-in-compliance situation may not be used to meet the CPD hours required for the current calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:

§3121. CPD Reinstatement

A. Effective for biennial licensure renewal periods beginning before January 1, 2017, to become reinstated, an expired, inactive, or retired licensee must show proof of having obtained all delinquent PDHs; however, the maximum number required will be the number of PDHs required for one biennial licensure renewal period as provided in §3105. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, to become reinstated, an expired, inactive, or retired licensee must show proof of having obtained all delinquent PDHs; however, the maximum number required will be the number of PDHs required for two calendar years as provided in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:

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 March 11, 2016 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: Examinations and Continuing Professional Development

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 eliminates the requirement that applications to take the principles and practice of land surveying and Louisiana laws of land surveying examinations must be received by the board by certain dates. The proposed rule also (a) removes the ability of the board to pre-approve individuals, firms and certain educational institutions as continuing professional development sponsor/providers, (b) changes the continuing professional development requirements from a biennial licensure renewal period basis to a calendar year basis and (c) permits licensees to obtain continuing professional development credit for serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying. The proposed rule change will not result in any adjustment to the number of professional development hours that licensees must obtain over the standard biennial licensure period, but adjusts the requirement so that

the hours are now divided such that one-half of the total hours requirement must be completed on an annual basis. The proposed rule does provide an additional mechanism for acquiring hours by serving on technical committees for certain entities and purposes.

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 provide an additional means for individuals to acquire professional development hours. The proposed rule will permit licensees to obtain credit for serving on technical committees for various governmental agencies in developing standards related to engineering or land surveying.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Donna D. Sentell
Executive Director
1602#014

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Office of Fisheries**

Reef Fish—Harvest Regulations (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying existing reef fish harvest regulations. Proposed changes decrease the daily trip limit of commercially harvested greater amberjack from 2,000 pounds to 1,500 pounds and increase the recreational minimum size limit of greater amberjack from 30 to 34 inches fork length. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §335. Reef Fish—Harvest Regulations

A. - D.7. ...

8. Commercial trip limits shall include those limits listed below. For the purposes of this rule, a *trip* is defined as a fishing trip, regardless of the number of days duration, that begins with departure from a dock, berth, beach, seawall or ramp and that terminates with return to a dock, berth, beach, seawall or ramp.

| Species or Group | Trip Limit |
|----------------------|--------------|
| a. Gray Triggerfish | 12 fish |
| b. Greater Amberjack | 1,500 pounds |

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

| Species | Minimum Size Limits |
|--|--|
| 1. Red snapper | 16 inches total length (Recreational) 13 inches total length (Commercial) |
| 2. Gray, yellowtail, and cubera snapper | 12 inches total length |
| 3. Lane snapper | 8 inches total length |
| 4. Mutton snapper | 16 inches total length |
| 5. Vermilion snapper | 10 inches total length |
| 6. Red grouper | 20 inches total length (Recreational) 18 inches total length (Commercial) |
| 7. Yellowfin grouper | 20 inches total length |
| 8. Gag grouper | 22 inches total length |
| 9. Black grouper | 22 inches total length (Recreational) 24 inches total length (Commercial) |
| 10. Scamp | 16 inches total length |
| 11. Greater amberjack | 34 inches fork length (Recreational) 36 inches fork length (Commercial) |
| 12. Hogfish | 12 inches fork length |
| 13. Banded rudderfish and lesser amberjack | 14 inches fork length (minimum size) 22 inches fork length (maximum size) |
| 14. Gray triggerfish | 14 inches fork length |

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:2383 (September 2012), LR 39:330 (February 2013), LR 40:95 (January 2014), repromulgated LR 40:1116 (June 2014), LR 40:2281 (November 2014), LR 42:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate the effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000,

Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, April 7, 2016.

Bart Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reef Fish—Harvest Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change will decrease the commercial trip limit for greater amberjack from 2,000 pounds per trip to 1,500 pound per trip and increases the recreational minimum size limit for greater amberjack from 30 inches to 34 inches.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is intended to change commercial regulations for greater amberjack in response to changes in federal regulations that were adopted after a 2014 stock assessment indicated that the greater amberjack stock in the Gulf of Mexico was overfished and undergoing overfishing. In Louisiana, the average commercial harvest of greater amberjack from 2005 through 2014 was approximately 141,000 pounds with an average nominal dockside value of \$154,000.

The proposed rule change is intended to reduce the annual commercial target for greater amberjack by 3.5 %. Commercial fishermen who harvest greater amberjack may experience a decrease in revenues. Assuming that the change in landings in Louisiana is proportionate to this expected change, the expected reduction in statewide dockside value is approximately \$5,390.

The proposed increase in the recreational minimum size limit for greater amberjack will reduce recreational landings. Because greater amberjack represent only a small percent of Louisiana's total marine recreational landings, the proposed rule change is anticipated to have only a minor economic effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a minimal effect on competition and employment.

Bryan McClinton
Undersecretary
1602#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Turtle Harvest Moratorium
(LAC 76:XV.101)

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission do hereby advertise their intent to place a moratorium on the commercial harvest from the wild

of razor-backed musk turtles and to revise regulations to be consistent with title 56 of the *Louisiana Revised Statutes*

Title 76

WILDLIFE AND FISHERIES

Part XV. Reptiles and Amphibians

Chapter 1. Guidelines

§101. Recreational and Commercial Harvests;

Prohibitions

A. - F.2. ...

G. Turtle Rules and Regulations

1. - 1.d. ...

e. A reptile and amphibian collector's license is required to collect and sell turtles.

2. Restricted Turtles

a. List of restricted turtles:

i. alligator snapping turtle (*Macrochelys temminckii*);

ii. razor-backed musk turtle (*Sternotherus carinatus*);

iii. box turtles (*Terrapene sp.*).

b. Commercial Prohibition. No person shall commercially take, possess, sell, purchase, trade, barter, or exchange restricted turtles, their eggs, or any parts thereof. Except that nothing herein shall prohibit the legal commercial sale, and possession of restricted turtles by licensed turtle farmers as provided in R.S. 56:632 et seq., and R.S. 3:2358.1 et seq., which were legally acquired prior to the effective date of this prohibition or imported legally into this state which have proper records as provided for in 56:637.

c. Recreational Take and Possession Limit. Persons engaged in collection of native reptiles and amphibians shall be licensed in accordance with R.S. 56:632.3. No person shall possess restricted turtles taken with commercial gear. No person shall possess in the field more than one alligator snapping turtle, two box turtles, or two razor-backed musk turtles. No person shall possess more than four box turtles or four razor-backed musk turtles. Certified zoos, aquariums, universities, research and nature centers will be exempted from take limits.

H. - K.2. ...

L. Except as provided in Subsection K, whoever violates the provisions of this Rule shall be subject to penalties as provided for in R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), (13), (15) and (25), R.S. 56:23, and R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:1135 (October 1994), amended LR 42:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice

of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to: Buddy Baker, Coastal Natural Resources Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to April 4, 2016.

Edwin "Pat" Manuel
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Commercial Turtle Harvest Moratorium

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change will remove redundancies in the administrative code regarding reptile and amphibian collector licensing to match R.S. 56:632.4, defines alligator snapping turtles, razor-backed musk turtles, and box turtles as restricted species, prohibits the commercial sale of the restricted turtle species and the use of commercial equipment in capturing them, and limits the number of razor-backed musk turtles that can be possessed in the field (2) and in total (4). The proposed rule change adjusts penalties to match class one violations as per RS 56:31.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no significant impact on the revenue collections of state or local governmental units. To the extent that the penalties associated with illegal turtle harvesting increase, local governments could see a minimal increase in revenue as penalties assessed by LDWF typically stay with the parish in which the crime was committed. Based on records from LDWF, illegal turtle harvesting infractions are minimal with only 5 instances being reported in the last 6 years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In 2014-2015, commercial turtle harvesters sold approximately 8,000 razor-backed musk turtles with an estimated dockside value of \$36,000 to turtle farmers. In 2014, turtle farmers exported approximately 34,000 razor-backed musk turtle hatchlings with a value of approximately \$388,000. The proposed rule change could curtail turtle hatchling production by restricting the availability of egg-producing female razor-backed musk turtles.

Reported sales of razor-backed musk turtles by commercial fishermen to commercial reptile/amphibian dealers had a dockside value of approximately \$257,000 in 2014 – 2015. The reported wholesale value of these turtles when later re-sold by reptile/amphibian dealers was approximately \$306,000. The proposed rule change could disrupt much of these sales.

Penalties under the existing rule are no less than \$25 nor more than \$100, or imprisonment for not less than 30 days, or both. Under the proposed rule, violations as per RS 56:31

impose a fine of \$50 or imprisonment for not more than 15 days, or both, plus all costs of court; for a second offense, a fine \$75 to \$250, or imprisonment for no less than 30 days nor more than 60 days, or both; for a third and all subsequent offenses a fine of \$250 to \$500, and imprisonment for no less than 30 days and no more than 90 days. The rule does not create any new rules or penalties for box turtles or alligator snapping turtles as both species have existing harvesting regulations in place.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may have a negative effect on competition and employment in the private sector, among turtle harvesters, turtle dealers, and turtle farmers.

Bryan McClinton
Undersecretary
1602#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Turtle Excluder Device (LAC 76:VII.374)

Pursuant to Act 416 of the 2015 Regular Legislative Session the Wildlife and Fisheries Commission does hereby give notice of its intent to establish the following administrative Rule relative to the use, possession, and configuration of devices designed to exclude the take of marine wildlife from shrimp trawls within the territorial waters of Louisiana and in the adjacent federal exclusive economic zone.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§374. Turtle Excluder Device (TED) Requirements;

Use; Exemptions; Prohibitions

A. The Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the use of turtle excluder devices.

B. It is unlawful for any person to do any of the following while trawling for shrimp within and without Louisiana's territorial waters: operate, be on board a vessel, fish for, catch, take, harvest, or possess, fish, shrimp or wildlife unless that vessel is in compliance with all applicable provisions of this Section regarding use of turtle excluder device (TED) requirements as contained herein.

C. Gear Requirements for Shrimp Trawlers

1. TED Requirement for Shrimp Trawlers. Any shrimp trawler that is in Louisiana waters or waters of the adjacent Gulf of Mexico area must have an approved TED installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the shrimp trawler.

D. Approved TEDs. Approved TEDs are those devices and their uses as approved and authorized by NOAA Fisheries Service as specified by 50 CFR 223.207.

E. Exemptions from the TED Requirement

1. Alternative tow-time restrictions. A shrimp trawler is exempt from the TED requirements of this Section if it complies with the alternative tow-time restrictions and if it:

a. has on board no power or mechanical-advantage trawl retrieval system (i.e., any device used to haul any part of the net aboard);

b. is a bait shrimper that retains all live shrimp on board with a circulating seawater system if it has a valid original state bait-shrimp license, and if the state license allows the licensed vessel to participate in the bait shrimp fishery;

c. has only a pusher-head trawl, butterfly net, skimmer trawl, or wing net rigged for fishing;

d. is in an area during a period for which tow-time restrictions apply under a specific declaration; or

e. is using a single test net (try net) with a head rope length of 12 ft (3.6 m) or less and with a lead-line length of 15 ft (4.6 m) or less, if it is pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net.

2. Tow-Time Restrictions; Duration of Tows. If tow-time restrictions are utilized a shrimp trawler must limit tow-times as described herein.

a. The tow-time is measured from the time that the trawl door enters the water until it is removed from the water. For a trawl that is not attached to a door, the tow-time is measured from the time the cod end enters the water until it is removed from the water. Tow-times may not exceed:

i. 55 minutes from April 1 through October 31; and

ii. 75 minutes from November 1 through March 31.

F. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended title 50 and 15, for sea turtles and turtle excluder devices while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange shrimp taken with a trawl within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:15, 56:23, 56:492.1, and 56:493.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., April 1, 2016 to Jeff Marx, LDWF Marine Fisheries Division, 2415 Darnall Rd., New Iberia, LA 70560, or via email to jmarx@wlf.la.gov.

Edwin "Pat" Manuel
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Turtle Excluder Device

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change is adopted pursuant to Act 416 of the 2015 Regular Legislative Session. This act overturned an earlier act which forbade the enforcement of federal turtle excluder device (TED) regulations by Louisiana Department of Wildlife and Fisheries personnel. The proposed rule thus creates a requirement for the use of a TED within Louisiana state regulations that mirrors the federal regulations already in place.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The legislature's passage of ACT 416 is likely to result in an expenditure increase related to the implementation of TEDs by Louisiana commercial shrimp harvesters because an unknown percentage of shrimping vessels will likely need to purchase the TEDs to comply with the regulations. According to industry estimates obtained by LDWF, the approximate cost to outfit a vessel with a TED would range between \$1,200 and \$1,600.

The proposed rule change makes the regulations in Title 76 consistent with state law. By itself, the proposed rule change will have no effect on the costs or economic benefits to any person or non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition and employment.

Bryan McClinton
Undersecretary
1602#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission Office of Workers' Compensation Administration

Fees (LAC 40:I.6605)

The Louisiana Workforce Commission does hereby give notice of its intent to make changes to LAC 40:I.6605.A. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C). It provides fees for court filings.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 3. Hearing Rules

Chapter 66. Miscellaneous

Subchapter A. General

§6605. Fees

A. The clerks for the Office of Workers' Compensation Administration shall be entitled to demand and receive the following fees as court costs in a workers' compensation dispute. Fees not pre-paid shall be due upon dismissal or final judgment, or on demand by the clerk:

1. filing of LWC-WC-1008—\$50;
2. filing of LWC-WC-1011 where no LWC-WC-1008 has been filed—\$50;
3. service of process on secretary of state—\$50 or as otherwise set by the secretary of state;
4. copies of any paper in any suit record—\$0.25 per page;
5. for each certification—\$1;
6. filing by facsimile transmission—\$5 for the first 10 pages and \$1 for each page thereafter;
7. cost of preparation of record for appeal—available upon request from the district offices;
8. cost of service by certified mail—\$5 per service;
9. subpoenas/subpoenas *duces tecum*—\$5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 25:281 (February 1999), amended LR 25:1871 (October 1999), amended by the Workforce Commission, Office of Workers' Compensation, LR 37:1630 (June 2011), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to implement the Rule.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to the Director, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802, and should be received on or before March 14, 2016.

Public Hearing

A public hearing will be held on March 29, 2016 at 9:30 a.m. at the Louisiana Workforce Commission Training Center located at the corner of Fuqua Street and North Twenty-Second Street across from the main campus of the Workforce Commission in Baton Rouge, LA. The public is invited to attend.

Ava Dejoie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule amends Title 40 Labor and Employment, Part I Workers' Compensation Administration, Subpart 3, Hearing Rules, Chapter 66 to increase various fees to be paid to the Office of Workers' Compensation Administration's (OWCA) district offices in a Worker's Compensation dispute.
Besides the cost to publish in the *Louisiana Register*, the proposed rule will not require any additional expenditure by OWCA.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule increases filing fees from the current rate of \$30 to \$50, which is the maximum amount authorized by statute. Also, the proposed rule increases the service of process fees on the Louisiana Secretary of State from \$25 to \$50, which is the amount currently charged by the Secretary of State. In addition, the proposed rule implements a \$5 fee per item for certified mail. Finally, the proposed rule increases the fee for subpoenas from \$1 to \$5 to reflect the administrative costs associated with issuing subpoenas.

Based on previous disputes, OWCA anticipates that the increase in fees will generate \$100,000 in FY 16 and \$250,000 in FY 17 and subsequent fiscal years. The additional revenue from increased fees will be paid by employees, employers, insurers, and other persons involved in litigation in the state's workers' compensation system.

The implementation of this proposed rule should have no anticipated effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will affect employees, employers, insurers, and other persons involved in litigation in the OWCA district courts by increasing the fees due.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Sheral Kellar
Director
1602#056

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

Potpourri

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill—Final Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement

Action:

Notice of Availability of Final Plan

Summary:

In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State *Deepwater Horizon* Oil Spill (the Oil Spill) natural resource trustee agencies for Louisiana, Mississippi, Alabama, Texas, and Florida (Trustees) have prepared a Final Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement (PDARP/PEIS). As required by OPA, the Final PDARP/PEIS presents the assessment of the impacts of the Oil Spill, which occurred on April 20, 2010, on natural resources in the Gulf of Mexico and on the services those resources provide, and determines the restoration needed to compensate the public for the impacts. The Final PDARP/PEIS also describes the Trustees' programmatic alternatives considered to restore natural resources, ecological services, and recreational use services injured or lost as a result of the Oil Spill. The Final PDARP/PEIS evaluates these programmatic restoration alternatives under criteria set forth in the OPA Natural Resource Damage Assessment (NRDA) regulations, and also evaluates the environmental consequences of the programmatic restoration alternatives under NEPA. The purpose of this notice is to inform the public of the availability of the Final PDARP/PEIS.

Addresses:

Obtaining the Document: You may download the Final PDARP/PEIS at http://la-dwh.com/PDARP_PEIS.aspx. Alternatively, you will be able to request a CD of the document (see *For Further Information Contact* section below). You will also be able to review copies of the document at the public repositories listed at http://la-dwh.com/PDARP_PEIS.aspx.

For Further Information Contact:

Courtney Groeneveld at gulfspill.restoration@noaa.gov.

Supplementary Information:

Background

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252 - MC 252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico. Tragically, 11 workers were killed and 17 injured by the explosion and fire. The well blowout and sinking of the *Deepwater Horizon* resulted in an unprecedented volume of oil and other discharges from

the rig, and from the wellhead on the seabed, for a period of over three months. The *Deepwater Horizon* Oil Spill is the largest oil spill in U.S. history, discharging approximately 3.19 million barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

Oil from the spill spread from the deep ocean to the surface and the nearshore environment, from Texas to Florida. The oil came into contact with and injured natural resources as diverse as deep-sea coral, fish and shellfish, productive wetland habitats, sandy beaches, birds, endangered sea turtles, and protected marine life. The Oil Spill prevented people from fishing, going to the beach, and enjoying their typical recreational activities along the Gulf. Extensive response actions were undertaken to reduce the impacts of the Oil Spill, but they also had collateral impacts on the environment. The oil and other substances released from the well in combination with the extensive response actions together make up the *Deepwater Horizon* incident.

The State and Federal Natural Resource Trustees (Trustees) conducted the NRDA for the *Deepwater Horizon* Oil Spill under OPA (33 U.S.C. § 2701 *et seq.*). Pursuant to OPA, Federal and State agencies and Indian Tribes may act as trustees on behalf of the public to assess natural resource injuries and losses, and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Department of Defense (DOD);¹
- U.S. Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;

- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas Parks and Wildlife Department, General Land Office, and Commission on Environmental Quality.

Notices of availability of the Draft PDARP/PEIS were published in the Louisiana Register on September 20 and October 20, 2015. The Draft PDARP/PEIS presented the assessment of impacts of the *Deepwater Horizon* Oil Spill on natural resources in the Gulf of Mexico and on the services those resources provide, and determined the restoration needed to compensate the public for these impacts. The Trustees provided the public with 60 days to review and comment on the Draft PDARP/PEIS. The Trustees also held public meetings in Houma, LA; Long Beach, MS; New Orleans, LA; Mobile, AL; Pensacola, FL; St. Petersburg, FL; Galveston, TX; and Washington, DC, to facilitate public understanding of the document and provide opportunity for public comment. The Trustees considered the public comments received which informed the Trustees' analysis of programmatic alternatives in the Final PDARP/PEIS. The Trustees actively solicited public input through a variety of mechanisms, including convening public meetings, distributing electronic communications, and using the Trustee-wide public website and database to share information and receive public input. A summary of the public comments received and the Trustees' responses to those comments are addressed in Chapter 8 of the Final PDARP/PEIS.

Overview of the Final PDARP/PEIS

The Final PDARP/PEIS is being released in accordance with OPA (33 U.S.C. §2701 et seq.), the NRDA regulations (15 CFR Part 990), and NEPA (42 U.S.C. § 4321 et seq.). In the Final PDARP/PEIS, the *Deepwater Horizon* Trustees present to the public their findings on the extensive injuries to multiple habitats, biological species, ecological functions, and geographic regions across the northern Gulf of Mexico that occurred as a result of the *Deepwater Horizon* incident, as well as their programmatic plan for restoring those resources and the services they provide. The injuries caused by the *Deepwater Horizon* incident cannot be fully described at the level of a single species, a single habitat type, or a single region. Rather, the injuries affected such a wide array of linked resources over such an enormous area that the effects of the *Deepwater Horizon* incident constitute an ecosystem-level injury. The Final PDARP/PEIS presents four programmatic alternatives evaluated in accordance with OPA and NEPA.

The four alternatives under the Final PDARP/PEIS are as follows:

- Alternative A (Preferred Alternative): Comprehensive Integrated Ecosystem Restoration Plan based on the programmatic Trustee goals;
- Alternative B: Resource-Specific Restoration Plan based on the programmatic Trustee goals;
- Alternative C: Continued Injury Assessment and Defer Comprehensive Restoration Plan; and
- Alternative D: No Action/Natural Recovery.

These programmatic alternatives are comprised of restoration types and approaches to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources and services. The Trustees' preferred alternative for a restoration plan utilizes a comprehensive, integrated ecosystem approach to best address these ecosystem-level injuries. The Trustees' evaluation determined this alternative is best at compensating the public for the losses to natural resources and services caused by the *Deepwater Horizon* incident.

The Trustees' proposed decision is to select a comprehensive restoration plan to guide and direct subsequent restoration planning and implementation during the coming decades. The Final PDARP/PEIS is programmatic; it describes the framework by which subsequent project specific restoration plans will be identified and developed, and sets forth the types of projects the Trustees will consider in each of several described restoration areas. The subsequent restoration plans will identify, evaluate, and select specific restoration projects for implementation that are consistent with the restoration framework laid out by the Final PDARP/PEIS. The Trustees considered this programmatic restoration planning decision in light of the proposed proposed settlement among BP, the United States, and the States of Louisiana, Mississippi, Alabama, Florida, and Texas to resolve BP's liability for natural resource damages associated with the *Deepwater Horizon* incident. Under this proposed settlement, BP would pay a total of \$8.1 billion for restoration to address natural resource injuries (this includes \$1 billion already committed for early restoration), plus up to an additional \$700 million to respond to natural resource damages unknown at the time of the settlement and/or to provide for adaptive management. The proposed Consent Decree for the proposed settlement was the subject of a separate public notice and comment process. The Notice of Lodging of the proposed Consent Decree under the Clean Water Act and OPA was published in the Louisiana Register on October 20, 2015.

Administrative Record

When they are completed, the documents comprising the Administrative Record will be available electronically at the following locations:

- <http://www.doi.gov/deepwaterhorizon/adminrecord>;
- or
- <http://la-dwh.com/AdminRecord.aspx>.

Authority

The authority of this action is the OPA (33 U.S.C. §2701 et seq.), the implementing NRDA regulations found at 15 CFR Part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451-2496 (2010)), and the implementing NRDA Regulations found at La. Admin. Code 43:XXIX.101 et seq.

¹Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* Oil Spill, DOD is not a member of the Trustee Council and does not currently participate in Trustee decision making.

Jason Lanclos
Deputy Executive Director

1602#022

POTPOURRI
Office of the Governor
Division of Administration
Tax Commission

Substantive Changes to Proposed Rule
Valuation of Onshore Pipelines
(LAC 61:V.1307)

The Louisiana Tax Commission published a Notice of Intent to amend Chapter 13, Pipelines, §1307, Pipeline Transportation Tables (LR 41:2716-2717) and an Emergency Rule containing the full Rule text (LR 41:2525-2532) in the December 20, 2015 edition of the *Louisiana Register*. As it was published, the proposed Rule updated values to Table 1307.B, Current Costs for Other Pipelines (Offshore), only. It was the intent of the commission to also update values to Table 1307.A, Current Costs for Other Pipelines (Onshore), as well.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

| Table 1307.A Current Costs for Other Pipelines (Onshore) | | |
|---|---------------|----------------------|
| Diameter (inches) | Cost per Mile | 15% of Cost per Mile |
| 2 | \$ 178,910 | \$ 26,840 |
| 4 | 210,660 | 31,600 |
| 6 | 248,060 | 37,210 |
| 8 | 292,090 | 43,810 |
| 10 | 343,940 | 51,590 |
| 12 | 404,990 | 60,750 |
| 14 | 476,880 | 71,530 |
| 16 | 561,530 | 84,230 |
| 18 | 661,200 | 99,180 |
| 20 | 778,570 | 116,790 |
| 22 | 916,770 | 137,520 |
| 24 | 1,079,510 | 161,930 |
| 26 | 1,271,130 | 190,670 |
| 28 | 1,496,760 | 224,510 |
| 30 | 1,762,450 | 264,370 |
| 32 | 2,075,300 | 311,300 |
| 34 | 2,443,680 | 366,550 |
| 36 | 2,877,450 | 431,620 |
| 38 | 3,388,220 | 508,230 |
| 40 | 3,989,650 | 598,450 |
| 42 | 4,697,850 | 704,680 |
| 44 | 5,531,750 | 829,760 |
| 46 | 6,513,680 | 977,050 |
| 48 | 7,669,900 | 1,150,490 |

NOTE: Excludes river and canal crossings

B. - C. ...

* * *

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:

Public Comments

Written comments may be sent to Charles Abels, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896, no later than 4 p.m., March 10, 2016.

Public Hearing

A public hearing on this proposed change will be held March 29, 2016, at 10 a.m., at the Louisiana Tax Commission office, 5420 Corporate Blvd., Suite 107, Baton Rouge, LA 70808.

James D. "Pete" Peters
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules reflect annual changes in valuation procedures for taxation purposes based on the most recent available data. There are no estimated state costs or savings associated with the proposed rules. The impact on local governmental workload and paperwork cannot be quantified, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

On average, these revisions will generally decrease certain 2016 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 increase by an estimated .5%. Specific valuation tables for assessment of pipelines will increase by an estimated 5.5% (onshore 7% and offshore 4.5%). Oil & gas wells will decrease by an estimated 7% in all regions. Drilling rigs will decrease by an estimated 10.5% (land rigs -21.5%, jack-ups no change, semisubmersible rigs no change and well service land only rigs -20.5%). Use value as it pertains to agricultural & horticultural land and timberland will increase by an estimated 8.5% (ag. & hort. land 15% and timberland 2.5%). There is no change for all other land classified as use value). The net effect determined by averaging these revisions is estimated to decrease assessments by .3% and estimated local tax collections by \$2,799,000 in FY 16/17 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution. The proposed rule also stipulates the calculation for depreciation of surface equipment, using actual age when reported, for equipment with an original purchase cost of \$2,500 or more beginning 1/1/16. Property identified as Salt Dome Storage Wells & Caverns will be assessed as general business assets beginning 1/1/16.

There is no impact to state governmental units

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be lower in 2016 compared to the last year of actual data. Specific assessments will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for the updates, the impact is expected to be minimal.

James D. "Pete" Peters
Chairman
1602#015

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

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 |
|---------------------------|-------------------|----------|------------------------------|-------------|---------------|
| Bonanza Lease Company Inc | Joyce | S | Tremont Lumber Co | 006 | 65292 |
| Carl W Jones et al | Pendleton-Many | S | O E Williams et al | 003 | 99527 |
| Stanolind Oil & Gas Co. | Abbeville | L | J E Kibbe Unit | 001 | 22997 |
| Ross Exploration, Inc. | Caddo Pine Island | S | Hobbs | 016 | 146829(30) |
| Gilliam Petroleum, Ltd. | Canadian Bayou | S | Vua;Desoto Oil and Gas Trust | 001 | 206196 |

| Operator | Field | District | Well Name | Well Number | Serial Number |
|-------------------------|----------------|----------|------------------------------|-------------|---------------|
| Gilliam Petroleum, Ltd. | Canadian Bayou | S | Vua;Desoto Oil and Gas Trust | 002 | 208546 |
| Gilliam Petroleum, Ltd. | Canadian Bayou | S | Vua;Desoto Oil and Gas Trust | 003 | 211116 |
| Gilliam Petroleum, Ltd. | Grand Cane | S | Cook Heirs | 001 | 212287 |
| Sevarg Company, Inc. | Savoy | L | R Fontenot SWD | 001 | 87785 |
| Sevarg Company, Inc. | Savoy | L | R Fontenot | 001D | 100109 |
| Sevarg Company, Inc. | Savoy | L | S J Manuel | 001 | 139691 |
| Sevarg Company, Inc. | Bayou Mallet | L | Vuh;Lillie M Miller | 001 | 141572 |
| Sevarg Company, Inc. | Savoy, North | L | CF RA Sub; J B Lafleur | 001 | 169261 |
| Sevarg Company, Inc. | Shuteston | L | VUA;Bart Warner | 001 | 175979 |
| Sevarg Company, Inc. | Savoy | L | VUA;Ralan Rozas | 001 | 176500 |
| Sevarg Company, Inc. | Opelousas | L | Wilson Courville | 001 | 181720 |
| Sevarg Company, Inc. | Shuteston | L | D G Courtney Swd | 001 | 203904 |
| Sevarg Company, Inc. | Bayou Mallet | L | Vuf;H G Vautrot Jr | 002 | 213967 |
| Sevarg Company, Inc. | Bayou Mallet | L | Vug;H G Vautrot Jr | 003 | 215033 |
| Sevarg Company, Inc. | Savoy | L | South Savoy SWD | 001 | 970580 |

Richard P. Ieyoub
Commissioner

1602#024

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