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Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office Agricultural and Environmental Sciences

Horticulture and Quarantine Programs—Citrus Greening and
Citrus Canker Disease Quarantine (LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of the state entomologist in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for citrus greening disease (CG) and citrus canker disease (CC) caused by the bacterial pathogens *Xanthomonas axonopodis* pv. *citri* and *Xanthomonas axonopodis* pv. *aurantifolii*. The state entomologist has determined that CG and CC has been found in this state and may be prevented, controlled, or eradicated by quarantine.

CG and CC pose an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to their ability to infest rutaceous plants. This industry has a farm value of \$2,400,000-\$5,000,000 in southeastern Louisiana in the form of citrus nursery stock, and \$5,100,000 in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes death of infested plants. CC causes premature leaf and fruit drop, twig dieback and tree decline in citrus trees and is spread by wind-driven rain or through the movement of infected plants. Failure to prevent, control, or eradicate these diseases threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana's commercial citrus industry adds \$7,500,000-\$10,000,000 to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of CG and CC in Louisiana outside of the current areas where these diseases have already been found.

For these reasons, the outbreak of CG and CC in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law March 3, 2017 and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§127. Citrus Nursery Stock, Scions and Budwood

A. - C.6. ...

D. Citrus Greening

1. The department issues the following quarantine because the state entomologist has determined that citrus greening disease (CG), also known as huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter spp.*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. Quarantined Areas. The quarantined areas in this state are the parishes of Orleans, Washington, Jefferson, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of CG and their movement is prohibited from CG-quarantined areas due to the presence of CG:

a. all plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative seed (but excluding fruit), of: *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *Afraegle paniculata*, *Amyris madrensis*, *Atalantia spp.* (including *Atalantia monophylla*), *Balsamocitrus dawei*, *Berbera (=Murraya) koenigii*, *Calodendrum capense*, *Choisya ternata*, *Choisya arizonica*, *X Citroncirus webberi*, *Citropsis articulata*, *Citropsis gillettiana*, *Citrus madurensis (= X Citrofortunella microcarpa)*, *Citrus spp.*, *Clausena anisum-olens*, *Clausena excavata*, *Clausena indica*, *Clausena lansium*, *Eremocitrus glauca*, *Eremocitrus hybrid*, *Esenbeckia berlandieri*, *Fortunella spp.*, *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *Microcitrus papuana*, *X Microcitronella spp.*, *Murraya spp.*, *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium ruticarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris (=Toddalia) lanceolata*, and *Zanthoxylum fagara*;

b. any other products, materials, articles, or means of conveyance, if an inspector determines that it presents a risk of spreading CG, and after the inspector provides written notification to the person in possession of the products, materials, articles, or means of conveyance that it is subject to the restrictions of the regulations.

E. - E.3.d.iii.(b). ...

F. Citrus Canker Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus canker disease (CC), caused by the bacterial pathogen *Xanthomonas axonopodis* pv. *citri* (Xac A, A* and AW) with synonyms *X. citri* pv. *citri*, or *X. citri* subsp. *citri* or *X. campestris* pv. *citri* or *X. smithii* subsp. *citri*; and *X. axonopodis* pv. *aurantifolii* (Xac B and C) with a synonym *X. fuscans* subsp. *aurantifolii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. No regulated materials as defined in this Subsection shall be moved out of any area of this state that is listed in this Subsection as a quarantined area for CC, except as provided in this Subsection.

3. Any person violating this quarantine shall be subject to imposition of the remedies and penalties provided for in R.S. 3:1653 for any violation of this quarantine.

4. Quarantined areas in this state include:

a. the entire parishes of Orleans, St. Bernard, Plaquemines, Jefferson, Lafourche, St. Charles, St. James and St. John;

b. a declaration of quarantine for CC covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the *Louisiana Register*.

F.5. - 6(i)(iv) ...

G. Labeling Requirements for Citrus-Related Quarantines

1. Any citrus nursery stock sold, moved, or distributed within an area quarantined for Asian citrus psyllid, citrus greening, or citrus canker shall have attached to the article or to the container of the article, a permanent and weatherproof tag or label in a clear and legible format no less than 14-point font bearing the exact words: PROHIBITED FROM MOVEMENT OUTSIDE OF THE CITRUS QUARANTINE AREAS, PENALTY FOR VIOLATION, Louisiana Department of Agriculture and Forestry. For a current list of quarantine areas, please go to www.ldaf.state.la.us.

2. Citrus nursery stock that is not in or intended for movement within an Asian citrus psyllid, citrus greening or citrus canker quarantined area shall not be required to be labeled as described in Paragraph 1 of this Subsection.

3. Citrus nursery stock labeled or tagged according to Paragraph 1 of this Subsection that is offered for retail sale in an area that is not quarantined for Asian citrus psyllid, citrus greening or citrus canker may be subject to stop order.

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 42:730 (May 2016), LR 43:

Mike Strain DVM
Commissioner

1703#011

DECLARATION OF EMERGENCY

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

Rice Seed Certification (LAC 7:XIII.749)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:1433, the commissioner of agriculture and forestry and the Agricultural Chemistry and Seed Commission declare an emergency to exist and adopt by emergency process the attached Rule relative to the sale of rice seed that does not meet current minimum certified seed germination standards.

Due to the historic flooding in the rice production area of Louisiana in 2016 during seed harvest and processing, seed rice quality has been significantly negatively impacted. As a result, the department's seed testing laboratory has analyzed numerous rice seed samples and has confirmed that much of the seed rice available to producers for the 2017 planting season does not meet the current minimum certified seed germination standards established by the Agricultural Chemistry and Seed Commission. Therefore, there is a severe shortage of rice seed that meets minimum germination standards established by current rules.

The rice industry in Louisiana contributes over \$500,000,000 to Louisiana's economy through the sale of rice. Without a temporary suspension of current minimum certified seed germination standards, a substantial portion of that contribution will be lost. Some producers will be forced out of business, thereby causing permanent economic loss to Louisiana's rice industry and loss of income to the citizens of Louisiana and businesses that depend on the rice industry. Such a shortage of available seed creates an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy. The Agricultural Chemistry and Seed Commission has determined that a temporary suspension of the current minimum certified seed germination standards is necessary to help alleviate, to the extent possible, the shortage of rice seed available for planting for the 2017 crop year.

This Rule shall have the force and effect of law on February 17, 2017, and will remain in effect 120 days, unless renewed by the commissioner of the Department of Agriculture and Forestry, or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 7. Certification of Specific Crops/Varieties

Subchapter B. Grain and Row Crop Seeds

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

A. - C. ...

* * *

D. Temporary Suspension of Certified Rice Seed Germination Standards

1. Notwithstanding any other provision of this Chapter to the contrary, the germination percentage for rice seed offered for sale, whether foundation, registered, or certified shall be 60 percent or above.

2. The label of all classes of certified rice seed with a germination percentage below 80 percent shall show the seed to be substandard, in addition to any other labeling requirements established by law or regulation.

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 and the Agricultural Chemistry and Seed Commission, LR 39:2724 (October 2013), amended LR 42:212 (February 2016), LR 43:

Mike Strain DVM
Commissioner

1703#002

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences**

Sweet Potato Yield Adjustments (LAC 7:XV.143)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:1733 and R.S. 3:1734, the commissioner of agriculture and forestry declares an emergency to exist and adopts by emergency process the attached Rule relative to the adjustment to the sweet potato yields for purposes of the sweet potato tax and sweet potato fee. Sweet potato growers pay a sweet potato tax of \$0.04 per 50 pound bushel and a fee of \$0.06 per bushel. The payments are based on an average yield of 175 bushels per acre. The Louisiana Sweet Potato Advertising and Development Commission determines the average yield pursuant to LAC 7:XV.143.D.1.a.

Louisiana’s 2016 sweet potato crop was devastated by adverse weather conditions, especially torrential rain that occurred just prior to harvest. The adverse weather caused many growers to experience a substantial reduction in the yield per acre. The losses to the sweet potato crop and the inability to timely harvest the crop has caused a severe economic hardship for Louisiana’s sweet potato growers. It is necessary to allow sweet potato growers an adjustment from the average yield per acre to reflect the reduction in the yields per acre experienced by growers in order to avoid growers paying excess taxes and fees during a time that they are experiencing financial hardship. Failure to allow such an adjustment creates a substantial risk of causing growers to pay more in taxes and fees than the amount actually due and has the potential of forcing growers out of business. Both

situations create an imminent peril to the welfare of the citizens of Louisiana and to Louisiana’s economy, thereby making this Emergency Rule necessary.

This Rule shall have the force and effect of law on February 16, 2017, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry, or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantines

Chapter 1. Crop Pests and Diseases

Subchapter C. Sweet Potato Weevil Quarantine

§143. Fees

A. - D.2. ...

E. A person who commercially grows, sells, or offers for sale sweet potatoes (“grower”) may petition the Louisiana Sweet Potato Advertising and Development Commission (“commission”) for a yield adjustment on the planted acres of the grower’s 2016 sweet potato crop. Adjusted yields will range from the average yield of 175 bushels per acre set by the commission down to 70 bushels per acre, which is the minimum adjusted yield the commission will accept.

1. A grower requesting a yield adjustment shall submit a written request to the commission.

a. The request shall include:

- i. the farm name and address;
- ii. the sweet potato dealer’s permit number;
- iii. the grower’s name, address, telephone number, and e-mail address, if available;
- iv. the acres planted;
- v. the total fresh market bushels harvested from the 2016 crop; and

vi. a brief explanation of the reason for the request.

b. The grower shall sign the written request. The written request shall be delivered to the commission through mail, fax or other form of actual delivery, on or before 4:30 p.m. on March 3, 2017. A request will also be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax shall be considered timely only upon proof of actual receipt of the transmission.

2. Each grower who has timely filed a request for an adjustment with the commission shall be notified of the date, time and place the commission is scheduled to consider the request at least 10 days prior to the commission meeting. The commission shall not consider a written request that is untimely.

3. Each grower who has timely filed a request for an adjustment may be present and speak on his behalf at the time the grower’s request is considered by the commission.

4. The commission shall grant or deny the adjustment based on the following factors:

- a. the location of the farm;
- b. the yield per planted acre as compared to the average statewide yield per planted acre, as set by the commission for 2016;

c. the reason given for the request for an adjustment; and

d. any other fact that is relevant to the request for an adjustment.

5. The commission may grant a request for adjustment if it finds all of the following.

a. The actual yield per planted acre for 2016 is less than the average yield per planted acre set by the commission for 2016.

b. The decreased yield for 2016 is related to factors beyond the grower's control.

c. The grower or farm submitting the request owes no delinquent or outstanding sweet potato fees, taxes or fines, levied prior to the 2016 crop year, to the Department of Agriculture and Forestry or to the commission.

6. The denial or granting of the request for an adjustment shall be a discretionary decision of the commission.

7. Each grower submitting a timely request for an adjustment shall be notified in writing of the commission's decision and the amount of the adjustment in the yield per planted acre, if any.

8. If the request for an adjustment is granted, then the amount of both the sweet potato fee and sweet potato tax owed by the grower shall be based on the adjusted yield set by the commission.

9. Each grower who submits a timely request for an adjustment, regardless of whether that adjustment is granted or denied by the commission, shall be entitled to pay his sweet potato fee and sweet potato tax without imposition of a penalty if he pays the fee within 30 days after receiving written notification of the commission's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1733-1734.

HISTORICAL NOTE: Promulgated by Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:1178 (August 2001), LR 29:2298 (November 2003), LR 43:

Mike Strain DVM
Commissioner

1703#001

DECLARATION OF EMERGENCY

Office of the Governor
Department of Veterans Affairs
Military Family Assistance Board

Military Family Assistance Program
(LAC 4:VII.Chapter 9)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 46:121 et seq., the secretary of the Louisiana Department of Veterans Affairs and the Military Family Assistance Board declare that an emergency exists and adopts by emergency process the attached rules relative to the Military Family Assistance Program. The

Louisiana Department of Veterans Affairs, Military Assistance Board proposes to amend Chapter 9 to comply with changes to R.S. 46:121 et seq. that took effect August 1, 2016 and process claims for disaster relief that resulted therefrom, most of which are related to the great flood of August 2016. The Louisiana Military Family Assistance Board amended the provisions related to persons eligible to apply to for assistance to comply with the changes created by Act 185 of the 2016 Regular Legislative Session. The amendments will allow all veterans of the armed forces who obtained an honorable discharge to apply for disaster assistance from the fund.

The great flood of August 2016, impacted over 120,000 Louisiana veterans. The adverse weather conditions, especially the torrential rains and flooding that occurred, caused many veterans to sustain total property losses. These losses have caused a severe economic hardship for Louisiana's veterans. Prior to August 1, 2016 the vast majority of these veterans were not eligible to apply for assistance to the Military Family Assistance Program because they served prior to September 11, 2011. As a result of changes made in Act 185 of the 2016 Regular Legislative Session, pre-September 11, 2001 veterans became eligible to apply for relief from the program. Following the Great Flood of August 2016, Louisiana Department of Veterans Affairs received over 3500 applications for disaster related relief from veterans now eligible to receive emergency relief from the fund, all of whom sustained severe or total property losses as a result of the afore mentioned flood. It is imperative that funds be awarded to eligible persons as soon as possible in order to assist them with their recovery. Failure to allow newly eligible person to access these funds creates a substantial risk of causing impacted veterans to suffer delays in recovering from the damages caused by the flood. This in turn will lengthen their exposure to financial and environmental hardships. This situation creates an imminent peril to the welfare of the thousands of Louisiana veterans impacted by the aforementioned flooding, specifically their health and livelihood, thereby making this Emergency Rule necessary.

This Rule shall have the force and effect of law on February 22, 2017, and will remain in accordance with law.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans affairs

Subchapter D. Military Family Assistance Program

§965. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Activated Military Personnel or *Activated Military Person*—a person domiciled in Louisiana for civilian purposes, names Louisiana as home of record (HOR) for military purposes, and who is any of the following:

a. a reserve component of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, including the Louisiana National Guard and called to active federal service in excess of 30 days;

b. a member of the Louisiana National Guard and called to active state service pursuant to R.S. 29:7;

c. a veteran of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, as defined in paragraph (4) of R.S. 46:121.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended by the Office of the Governor, Department of Veterans Affairs, Military Family Assistance Board, LR 43:

§967. Eligibility

A. ...

B. The activated military person must have served in excess of 30 consecutive days of active duty since September 11, 2001 or be a veteran of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, as defined in paragraph (4) of R.S. 46:121, before the activated military person or any family member may submit an application for assistance to the Louisiana Military Family Assistance Program.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended by the Office of the Governor, Department of Veterans Affairs, Military Family Assistance Board, LR 43:

§969. Application Process

A. - A.9. ...

10. The applications of activated military personnel who served after September 11, 2001 shall be given priority during the consideration process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended by the Office of the Governor, Department of Veterans Affairs, Military Family Assistance Board, LR 43:

§973. Award Amounts

A. - C.3.d. ...

4. Family members of activated military personnel who are listed as missing in action or prisoner of war by the U.S. Department of Defense shall be eligible for the lump sum award. The activated military person must be listed as missing in action or a prisoner of war.

D. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1608 (June 2011), amended by the Office of the Governor, Department of Veterans Affairs, Military Family Assistance Board, LR 43:

Joey Strickland
Chairman, Military Family
Assistance Board
and
Secretary, Louisiana Department
of Veterans Affairs

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion clinics in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

This Emergency Rule is being promulgated in order to continue the provisions of the December 3, 2016 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective April 3, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

Subchapter C. Pre-Operative, Intra-Operative, and Post-Operative Procedures

§4431. Screening and Pre-Operative Services

A. - E.1. ...

1703#036

2. Requirements

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

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

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

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

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

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

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

c. - e. Repealed.

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

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an

abortion, pursuant to all laws, rules and regulations regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

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

1.c. - 3. ...

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

i. - iv. ...

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

4. ...

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

i. - NOTE. Repealed.

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

a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws.

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

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

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

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

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

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

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

5. ...

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

b. ...

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

6. - 7.b. ...

8. Disposition of Fetal Remains

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

Rebekah E. Gee MD, MPH
Secretary

1703#037

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers
Community Choices Waiver
Electronic Visit Verification
(LAC 50:XXI.9305)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.9305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals who are elderly or have a disability through the Community Choices Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the Community Choices Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 3). This Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Community Choices Waiver participants by assuring that they receive the services they need and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective March 27, 2017, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver to establish requirements for the use of an EVV system.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 93. Provider Responsibilities

§9305. Electronic Visit Verification

A. Effective for dates of service on or after April 1, 2015, Community Choices Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Community Choices Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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

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

1703#038

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services—Graduate Medical Education
Supplemental Payments Pool Elimination (LAC 50:V.1331)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.1331 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to adopt provisions in order to continue medical education payments to state hospitals, children's specialty hospitals and acute care hospitals classified as teaching hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for inpatient hospital services (*Louisiana Register*, Volume 38, Number 11).

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to eliminate the total supplemental payments pool for graduate medical education payments to qualifying acute care hospitals (*Louisiana Register*, Volume 43, Number 3). The department has now determined that it is necessary to amend the provisions of the March 1, 2017 Emergency Rule in order to

clarify these provisions and to correct a technical error to assure that the provisions are promulgated in a clear and concise manner. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective March 2, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions of the March 1, 2017 Emergency Rule governing the reimbursement methodology for inpatient hospital services to eliminate the pool for supplemental payments for graduate medical education.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 13. Teaching Hospitals
Subchapter B. Reimbursement Methodology
§1331. Acute Care Hospitals

A. - E. Repealed.

F. Effective for dates of service on or after February 1, 2012, medical education payments for inpatient services which are reimbursed by a prepaid risk-bearing managed care organization (MCO) shall be paid monthly by Medicaid as interim lump sum payments.

1. Hospitals with qualifying medical education programs shall submit a listing of inpatient claims paid each month by each MCO.

a. *Qualifying Medical Education Programs*—graduate medical education, paramedical education, and nursing schools.

2. Qualifying hospitals must have a direct medical education add-on component included in their prospective Medicaid per diem rates as of January 31, 2012 which was carved-out of the per diem rate reported to the MCOs.

3. Monthly payments shall be calculated by multiplying the number of qualifying inpatient days submitted by the medical education costs component included in each hospital's fee-for-service prospective per diem rate. Monthly payment amounts shall be verified by the department semi-annually using reports of MCO covered days generated from encounter data. Payment adjustments or recoupments shall be made as necessary based on the MCO encounter data reported 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:877 (May 2008), amended LR 38:2773 (November 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

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

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

Rebekah E. Gee MD, MPH
Secretary

1703#007

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services—Graduate Medical Education
Supplemental Payments Pool Elimination (LAC 50:V.1331)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.1331 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to adopt provisions in order to continue medical education payments to state hospitals, children's specialty hospitals and acute care hospitals classified as teaching hospitals when the hospitals are reimbursed by prepaid risk-bearing MCOs for inpatient hospital services (*Louisiana Register*, Volume 38, Number 11).

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing inpatient hospital services to eliminate the total supplemental payments pool for graduate medical education payments to qualifying acute care hospitals. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$5,000,000 for state fiscal year 2016-2017.

Effective March 1, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services to eliminate the pool for supplemental payments for graduate medical education.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 13. Teaching Hospitals
Subchapter B. Reimbursement Methodology
§1331. Acute Care Hospitals

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 34:877 (May 2008), amended LR 38:2773 (November 2012), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

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

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

Rebekah E. Gee MD, MPH
Secretary

1703#005

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services—High Medicaid Hospitals Supplemental Payments Pool Reduction (LAC 50:V.953)

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

As a result of a budgetary shortfall in state fiscal year (SFY) 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals, and changed the frequency of the payments (*Louisiana Register*, Volume 41, Number 1).

As a result of a budgetary shortfall in SFY 2017, the Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals classified as high Medicaid hospitals. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$999,000 for state fiscal year 2016-2017.

Effective March 1, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-rural, non-state inpatient hospital services to reduce the high Medicaid supplemental payments pool.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - S. ...

T. Effective for dates of service on or after March 1, 2017, supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be annual. The amount appropriated for annual supplemental payments shall be reduced to \$1,000. Each qualifying hospital's annual supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

1703#004

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Intellectual Disabilities Supplemental Payments (LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum

period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services rendered to Medicaid recipients.

The Department of Health and Hospitals, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department (*Louisiana Register*, Volume 41, Number 8). The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the August 1, 2015 Emergency Rule to establish upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center, hereafter referred to as Pinecrest (*Louisiana Register*, Volume 42, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2016 Emergency Rule. This action is being taken to secure new federal funding and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation.

Effective March 21, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state ICFs/ID.

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
§32917. Supplemental Payments

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department.

B. Effective for dates of service on or after August 1, 2016, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to provide a privately operated living setting, with an end goal of increased community placement opportunities, to residents of Pinecrest who desire to discharge and have been deemed ready for discharge by their interdisciplinary teams, and

meet the admission protocol/criteria of the contracted party but have not been successful in securing a placement with a private provider.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of \$329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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

1703#039

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services

Personal Care Services—Long-Term
Standards for Participation
Electronic Visit Verification
(LAC 50:XV.12909)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12909 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term personal care services and supports to individuals with functional impairments.

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services (LT-PCS) in order to adopt requirements which mandate that LT-PCS providers must utilize the electronic

visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for long-term personal care services (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of persons with a functional impairment by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective March 27, 2017, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services to establish requirements for the use of an EVV system.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12909. Standards for Participation

A. - D.2. ...

E. Electronic Visit Verification. Effective for dates of service on or after April 1, 2015, providers of long-term personal care services shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

1. Reimbursement shall only be made to providers with documented use of the EVV system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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

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

1703#040

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Bait Gulf Menhaden Season—2017

In accordance with the provisions of R.S. 49:953(H), which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to employ emergency procedures, effective March 2, 2017, to establish seasonal rules to set finfish seasons, R.S. 56:6(25)(a) and 56:326.3, which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and 56:325.6, which provides for an extended bait gulf menhaden season outside of the regular commercial menhaden season, the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of bait gulf menhaden in Louisiana state waters:

The commercial season for the harvest of bait gulf menhaden taken within Louisiana state waters or landed in Louisiana shall open at 12:01 a.m., March 15, 2017. The harvest of bait gulf menhaden shall not exceed the established quota of 3,000 metric tons for the 2016-17 bait menhaden season.

The commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to modify the season for the commercial harvest of bait gulf menhaden as needed to effectively implement the provisions herein upon notification to the chairman of the Wildlife and Fisheries Commission.

Chad J. Courville
Chairman

1703#016

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Honey Bees, Apiaries, and Fire Ants (LAC 7:XV.Chapters 5 and 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry ("department") has amended LAC 7:XV.501-519 regarding honey bees and apiaries. The Rule also repeals in its entirety LAC 7:XV.701-725 regarding fire ants.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantines

Chapter 5. Honey Bees and Apiaries

(Formerly LAC 7:XXI.Chapter 25)

§501. Definitions

(Formerly LAC 7:XXI.2501)

A. For purposes of this Chapter, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

Agent—an authorized representative of the state entomologist and/or the Department of Agriculture and Forestry.

Apiary or Yard—the assembly of one or more colonies of bees at a single location.

Apiary Law and Regulation—the provisions in title 3 of the *Louisiana Revised Statutes* regulating apiaries and the regulations promulgated in Title 7 of the *Louisiana Administrative Code* regulating apiaries.

Beekeeper—an individual, firm or corporation, who owns or has under his control one or more colonies of bees.

Certificate of Inspection—a document issued after authorized personnel have inspected bees or regulated articles prior to, and for the purpose of, the movement of such bees or regulated articles.

Colony or Hive—an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones; including brood, combs, honey, and the receptacles inhabited by the bees.

Comb Package—a package of bees shipped or moved on a comb containing honey and/or brood, with or without a queen.

Combless Package—a package of bees shipped or moved without comb, with or without a queen.

Commissioner—the commissioner of agriculture and forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Disease or Pest—any infectious condition of bees which is detrimental to the honey bee industry, including, but not limited to, American foulbrood.

Frame—a wooden or plastic case for holding honeycomb.

Infested—the presence of any disease or pest of bees.

Nucleus—bees, brood, combs and honey in or inhabiting a small hive or portion of a standard hive or other dwelling place.

Permit—a registration certificate issued by the department to a beekeeper upon registration in accordance with the apiary laws and regulations.

Person—an individual, firm, corporation or other legal entity.

Quarantine—an official act of the state entomologist which prohibits or limits movement of bees or regulated articles when necessary to control, eradicate or prevent the introduction, spread or dissemination of any and all diseases of bees and all other pests of bees. A quarantine is local when it covers specific apiaries, colonies, bees or regulated articles, or another specific location. A quarantine is geographic when it covers a general area.

Quarantine Area—any area of the state designated by the state entomologist as having regulated articles which are or may be infected by a disease and/or infested with a pest, which presents a danger to other colonies of bees.

Queen—a fully developed female bee, capable of being fertilized.

Regulated Areas—geographical areas outside of the state of Louisiana which have been designated by the U.S. Department of Agriculture, Louisiana Department of Agriculture and Forestry, or local governmental officials as infested states or counties. Any state or county which fails to conduct annual inspections in accordance with inspection standards adopted by the Louisiana Department of Agriculture and Forestry shall be presumed to be a regulated area.

Regulated Articles—colonies of bees, nuclei, comb or combless packages of bees, queens, used or second-hand beekeeping fixtures or equipment, and anything that has been used in operating an apiary.

State Entomologist—the entomologist of the Department of Agriculture and Forestry.

Super—a standard frame hive body (all depths).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2302 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:928 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:510 (March 2017).

§503. Restrictions on Movement of Bees or Regulated Articles into Louisiana (Formerly LAC 7:XXI.2511)

A. Movement of bees or regulated articles from regulated areas into Louisiana may require prior written authorization issued by the commissioner, state entomologist or department.

B. If the state entomologist or his agents find that any bees and/or regulated articles have been brought into this state in violation of any laws and/or regulations governing apiaries, the bees and/or regulated articles may be

immediately placed under stop order until released by the commissioner or state entomologist. Upon inspection, the bees or regulated articles may be placed under quarantine. Any violation of stop order or quarantine shall constitute a violation of the apiary law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:929 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:510 (March 2017).

§505. Interstate Movement of Supers and Frames Used in Shipping Honey (Formerly LAC 7:XXI.2513)

A. Class A permit holders, by written authorization of the commissioner or state entomologist, may move supers filled with frames and/or honey into and out of the state provided that each such super is moved free of bees and under a bee proof enclosure. Each load of supers must bear a brand or label containing the name, address and telephone number of the shipper or mover.

B. The department shall be notified, either in advance of or at the time of arrival, of the number of such supers filled with frames and/or honey being moved into the state. The department shall also be provided the name, address and telephone number of the recipient of each super if the recipient is not the class A permit holder to whom written authorization was issued.

C. All such supers filled with frames and/or honey shall be subject to inspection by authorized department personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:511 (March 2017).

§507. Annual Registration and Designation of Class A and B Permits (Formerly LAC 7:XXI.2503)

A. Beekeepers will be designated as class A or class B permit holders. To be eligible for a class A permit, an applicant must either:

1. be domiciled in this state; or
2. have held a class B permit for three consecutive violation-free years. If violations are incurred at any time during this three-year period, the class B permit holder will automatically be placed back at year one, pending payment of any fines levied against him by the commissioner.

B. The holder of a class A permit may do the following:

1. keep or move bees within Louisiana in new or used beekeeping equipment;
2. apply to the department for an inspection for the purpose of moving bees;
3. move bees out of Louisiana upon receiving a certificate of inspection from the department; and
4. move bees into Louisiana as long as bees are accompanied by an inspection certificate from the state of origin.

C. The holder of a class B permit may do the following:

1. keep or move bees within Louisiana as long as the bees or equipment are established in Louisiana and are obtained from a beekeeper registered with the department;
2. keep or move bees obtained as a combless package that have been certified from the state of origin into Louisiana and move new, but not used, beekeeping equipment into Louisiana; and
3. apply to the department for a certificate of inspection for the purpose of determining the general health of the bees and to establish that the bees are not in violation of any apiary laws or regulations. This certificate of inspection will not confer authority on a class B permit holder to move bees.

D. The holder of a class B permit shall do the following:

1. maintain his yard or apiary a minimum of two miles from any other bee yard or apiary for three consecutive violation-free years. However, any registered beekeeper who owns property may locate his or her own apiary anywhere on that property. The holder of a class B permit must be able to demonstrate that he made reasonable efforts to ascertain and ensure that his bee yard or apiary would not be set up within a two mile radius of an existing bee yard or apiary. The holder of a class B permit may move his yard or apiary within two miles of an existing yard or apiary if the owner of the existing apiary gives written permission;
2. provide the department with a map and the GPS coordinates of his bee yard or apiary every year at the time when the bees are registered with the department; and
3. apply for an inspection of the bees and be inspected for three consecutive years and be found free of any regulated pests of diseases during those years.

E. Permits issued for registration shall not allow the holder to move bees or regulated articles as is provided for with a certificate of inspection.

F. Failure to register colonies of bees in the state of Louisiana is a violation of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2305 and R.S. 2:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:511 (March 2017).

§509. Authority to Enter Premises (Formerly LAC 7:XXI.2505)

A. For the purpose of ascertaining whether bees or regulated articles may have been or are being transported in violation of the apiary law or regulations, authorized personnel may enter onto property in the state where apiaries, bees or regulated articles are located, or are reasonably believed to be located, to determine if colonies or apiaries located on the property have been registered and are in compliance with all other apiary laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry,

**§511. Applications for Inspection
(Formerly LAC 7:XXI.2507)**

A. Beekeepers who desire certificates of inspection authorizing the movement of bees and/or regulated articles shall make application for inspection on a form that will be furnished by the department prior to moving the bees and/or regulated articles.

B. The applicant must furnish the department with a map showing the location of the bees and/or regulated articles to be moved. If the bees or regulated articles are at one or more apiaries, then a map showing each apiary where the bees or regulated articles are located must be submitted along with the application. Any relocation of any bees or regulated articles that are scheduled to be moved shall be provided to the department prior to or as soon as possible after the relocation.

C. The intrastate relocation of bees or regulated articles shall not require a certificate of inspection unless the bees or regulated articles are located in an area under a geographic or local quarantine or are under stop order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2307 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:512 (March 2017).

**§513. Issuance and Use of Certificates of Inspection
(Formerly LAC 7:XXI.2509)**

A. No certificate of inspection shall be issued by the department for the movement of bees or regulated articles unless the bees or regulated articles come from apiaries that:

1. are not under a geographic or local quarantine or a stop order;
2. have been inspected at least once in the twelve months prior to the date of application for a certificate of inspection;
3. are free of American foulbrood infection; and
4. have effective control of any other disease or pest, if such an infestation is present.

B. Certificates of inspection shall not be issued to cover the shipment or movement of bees and/or regulated articles from an area that has been quarantined on account of American foulbrood infection until it has been determined by state entomologist that the American foul-brood infestation has been destroyed.

C. The issuance of a certificate of inspection by the department is discretionary if the applicant is not registered with the department, the colony or apiary to be inspected is not registered with the department, the applicant owes outstanding fines or fees to the department, the apiaries are not properly marked, or if the applicant is otherwise not in compliance with the apiary laws and regulations.

D. No certificate of inspection issued by the department shall be used to move bees or regulated articles from any apiary or other location not listed on the certificate of inspection.

E. All hives shall have removable tops and frames allowing inspection at all depths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2306, R.S. 3:2303, and R.S. 3:2307.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:931 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:512 (March 2017).

**§515. Quarantines
(Formerly LAC 7:XXI.2515)**

A. As an exercise of the full and plenary power granted by statute to deal with all diseases and pests of bees the commissioner or the state entomologist may declare and enforce a geographic quarantine of any area of the state or from any regulated area when necessary to control, eradicate, or prevent the introduction, spread, or dissemination of a disease or pest.

1. A geographic quarantine shall contain a concise statement of the facts supporting the declaration of quarantine, the geographical area of quarantine, the date the quarantine is to begin, the objectives of the quarantine, the prohibitions and restrictions imposed by the quarantine, and any other special provisions.

2. The movement of bees or regulated articles from any quarantined area into non-quarantined areas of the state is prohibited except as provided by the terms of the geographic quarantine or by special permit of the commissioner or the state entomologist obtained prior to movement.

3. A geographic quarantine may be amended, lifted, or modified by written declaration of the commissioner or state entomologist.

4. A geographic quarantine and any amendment, lifting, or modification of such quarantine shall go into effect immediately upon being declared unless a later effective date is stated.

5. A geographic quarantine and any amendment to or lifting or modification of a geographic quarantine shall be published in the next available edition of the *Louisiana Register*.

B. The commissioner or the state entomologist may impose a local quarantine on specific apiaries, colonies, bees or regulated articles, or other specific location when necessary to control, eradicate, or prevent the introduction, spread, or dissemination of a disease or pest.

1. A local quarantine shall contain a concise statement of the facts supporting the declaration of quarantine, the beekeeper, the specific apiaries, colonies, bees or regulated articles, or location being quarantined, the date the quarantine is to begin, the prohibitions and restrictions imposed by the quarantine, and any other special provisions.

2. The movement of bees or regulated articles into or out of any apiary or location subject to a local quarantine is prohibited except as provided by the terms of the local quarantine or by special permit of the commissioner or the state entomologist obtained prior to movement.

3. A local quarantine may be amended, lifted, or modified by written declaration of the commissioner or state entomologist.

4. A local quarantine and any amendment, lifting, or modification of such quarantine shall go into effect immediately upon being declared unless a later effective date is stated.

5. A local quarantine and any amendment, lifting, or modification of such quarantine does not need to be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308, R.S. 3:2304 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:931 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:512 (March 2017).

**§517. Eradication Measures
(Formerly LAC 7:XXI.2517)**

A. All persons who know of or suspect an infestation or infection of any bees or regulated articles with any disease or pest shall immediately report such information to the department.

B. All colonies of bees infected with American foulbrood shall be destroyed by burning the frames, bees and combs in the presence of or by an agent or specialist of the department. Hive bodies and top and bottom boards saved from infected colonies shall be moved from the yard during the burning process or by a time prescribed by agents of the department and are to be scorched or properly treated to remove possible sources of reinfestation before re-use. Failure to adhere to this requirement shall result in destruction of all infected equipment including hive bodies, top and bottom boards.

C. Nuclei exposed to American foulbrood infection by the transfer of combs with brood or bees from an infected colony or yard shall be destroyed by burning.

D. If any apiary or yard of bees has 4 percent or less American foulbrood infestation, as noted below, the infected colony(ies) shall be burned immediately and a stop order issued. This shall mean that a second inspection shall be made within 21-30 days to insure control of the disease. Where a second inspection is required, colonies shall not be moved except under special permit issued by the state entomologist.

Colonies in Apiary or Yard	AFB Infected Colony
01-25	1
26-50	2
51-75	3
75 or more	4

1. If over 4 percent of the colonies, but not more than four colonies in the case of over 100 colonies, in an apiary or yard are found to be infested with American foulbrood, the colonies shall be burned immediately and the apiary or yard shall be placed under a 21-30 day quarantine, during such time no drugs will be allowed to be fed to the bees. If after 21-30 days an inspection shows that the apiary or yard is found free from American foulbrood infestation, the quarantine shall be lifted. However, if American foulbrood is again found, an additional 21-30 day quarantine period shall be enforced and infested colonies shall be burned immediately. An additional 60-day quarantine shall be

enforced on any quarantined apiary or yard found to be treated with drugs to mask the infection.

E. All colonies of bees found infected with European foulbrood shall be requeened or treated within 30 days after infection is found. European foulbrood found in excess of 4 percent upon second inspection shall be quarantined until the disease is under control.

F. All other bee diseases and/or pests found that are considered detrimental to the honeybee industry shall be treated as prescribed by the state entomologist or his designee for the control of same. Bees or regulated articles infested with any pest or infected with any disease shall be subject to being placed under a quarantine and treated as determined by the commissioner and state entomologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308, R.S. 3:2304 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:931 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:513 (March 2017).

**§519. Penalties and Adjudicatory Proceedings
(Formerly LAC 7:XXI.2519)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2310 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:513 (March 2017).

**Chapter 7. Control of Fire Ants
(Formerly LAC 7:XXI.Chapter 27)**

**§701. Authority
(Formerly LAC 7:XXI.2701)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:513 (March 2017).

**§703. Definitions of Words, Terms and Phrases
(Formerly LAC 7:XXI.2703)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:513 (March 2017).

**§705. Scouting, Inspection, Control and Eradication
Authority
(Formerly LAC 7:XXI.2705)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:513 (March 2017).

**§707. Quarantined Area
(Formerly LAC 7:XXI.2707)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2353 and R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:933 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§709. Regulated Products
(Formerly LAC 7:XXI.2709)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2353 and R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:933 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§711. Conditions Governing Movement of Regulated Products
(Formerly LAC 7:XXI.2711)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:933 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§713. Conditions Governing the Issuance of Certificates, Limited Permits and Dealer-Carrier Agreements
(Formerly LAC 7:XXI.2713)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§715. Assembly of Articles for Inspection
(Formerly LAC 7:XXI.2715)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§717. Cancellation of Certificates or Limited Permits
(Formerly LAC 7:XXI.2717)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§719. Waiver of Liability
(Formerly LAC 7:XXI.2719)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§721. Shipments for Scientific Purposes
(Formerly LAC 7:XXI.2721)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§723. Penalties
(Formerly LAC 7:XXI.2723)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2354 and R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:514 (March 2017).

**§725. Effective Date
(Formerly LAC 7:XXI.2725)**

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of

Mike Strain, DVM
Commissioner

1703#046

RULE

Department of Agriculture and Forestry Office of the Commissioner

Placing of Advertising or Sponsorship Signs on Department Assets (LAC 7:V.3101)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”) has enacted rules regarding the placing of advertising signs on department-owned property. R.S. 3:6, enacted by Act 70 of the 2016 Regular Session of the Louisiana Legislature, provides that the department may “authorize the placement, erection, and maintenance of advertising and sponsorship signs on immovable property, improvements on immovable property, vehicles, vessels, airplanes, and assets of the department.” R.S. 3:6 further authorizes the department to “establish appropriate and reasonable fees and promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.”

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 31. Placing of Advertising or Sponsorship Signs on Department Assets

§3101. Advertising or Sponsorship Signs on Department Assets

A. Purpose

1. The purpose of this Rule is to establish procedures and guidelines within the department for allowing certain limited types of advertising and sponsorship signs on high-visibility assets owned or controlled by the department to raise revenue to defray costs of departmental services.

2. The display of advertising or sponsorship signs on departmental assets shall not constitute an endorsement by the department of any of the products, services or messages of the advertiser or sponsor.

3. Advertisement or sponsorship signs may be placed on immovable property, improvements on immovable property, vehicles, vessels, airplanes, and assets of the department, including but not limited to websites, pamphlets, brochures, and other outreach, communications, and educational materials.

B. Solicitation, Selection and Contracting

1. The department may issue solicitations to secure contracts to determine the market potential for advertisements or sponsorships or to place advertisements or sponsorship signs on department assets.

2. The solicitation responses will be reviewed by a three person committee appointed by the commissioner, and the most suitable proposals, as determined by the committee, may be selected.

3. The committee shall consider the following criteria before entering into a sponsorship agreement:

a. whether the sponsorship is consistent with the goals, objectives, and mission of the department and the current priorities that support these goals, objectives, and mission; and

b. the importance of the sponsorship to the mission of the department; and

c. the extent and prominence of the public display of sponsorship; and

d. aesthetic characteristics of the public display of sponsorship; and

e. the level of support provided by the sponsor; and

f. the cooperation necessary from the department to implement the sponsorship; and

g. any inconsistencies between the department’s policies and the known policies of the potential sponsor; and

h. other factors that might undermine public confidence in the department’s impartiality or interfere with the efficient delivery of department services or operations, including, but not limited to, current or potential conflicts of interest, or perception of a conflict of interest, between the sponsor and department employees, officials, or affiliates; and the potential for the sponsorship to tarnish the state’s standing among its citizens or otherwise impair the ability of the state to govern its citizens.

4. The committee has the discretion to make reasonable recommendations to the commissioner concerning the types of advertising or sponsorship signs that may be displayed utilizing the criteria established herein.

5. The commissioner shall have final discretion regarding which recommendations and solicitations are selected. Selections shall be made for those advertisements or sponsorships that do not impact or infringe upon the image or reputation of the department.

6. The amount of the approved financial or in-kind support is at the discretion of the department.

7. The department may limit the number and type of assets available for advertising or sponsorship displays.

8. The department may limit the authorization to advertise or place sponsorship signs among the department’s divisions, sections, programs and initiatives.

9. The department may limit the terms and conditions of the contract with an advertiser or sponsor.

10. Sponsorship agreements shall include a termination clause giving the department the right to tend such agreement at any time based on any of the following:

a. safety concerns;

b. a determination that the sponsorship agreement or acknowledgement is not in the public interest; or

c. for the convenience of the department.

C. Guidelines for Content for Advertising and Sponsorship Signs

1. Only commercial advertising or sponsorships will be accepted. The advertisement or sponsorship content shall only include content that promotes or informs a commercial transaction.

2. No content promoting illegal activity or obscene, vulgar or offensive conduct shall be allowed.

3. No content that demeans or disparages individuals or groups shall be allowed.

4. No political or religious advertising or sponsorships shall be allowed.

5. No advertising or sponsorship signs of adult oriented products shall be allowed.

6. Advertising or sponsorship signs of firearms and other means authorized in the lawful taking of game in Louisiana may be allowed.

7. The advertising or sponsorships should not be so controversial that it can promote vandalism of advertising or sponsorship materials and associated departmental property.

D. Guidelines for Placement of Advertising or Sponsorship Signs on Assets

1. Advertising or sponsorship signs shall not be placed in a manner that could interfere or confuse as to the identification of department's ownership or control of the asset.

2. On vehicles and other assets of the department traditionally utilized in the transport of personnel or equipment, advertising or sponsorships signs may be placed on the inside or the outside of equipment. However, the signage shall not be erected in such a manner that it impedes the asset's safe utilization and operation.

3. For advertising or sponsorship signs which require a power source, such as electronics or LED lighting, the advertiser or sponsor will be required by the department to submit and maintain detailed plans and provisions. The use of the powered advertising or sponsorship devices shall not have any adverse effect on the safety and functionality of the asset. If the safety and functionality of the asset is compromised after installation, the signage shall be removed.

4. The department will maintain full ownership of any sponsored product, event and asset.

AUTHORITY NOTE: Promulgated in accordance R.S. 3:6

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 43:515 (March 2017).

Mike Strain, DVM
Commissioner

1703#050

RULE

Board of Elementary and Secondary Education

Bulletin 1922—Compliance Monitoring Procedures
(LAC 28:XCI.101, 105, 107, 109,
301, 303, 305, 307, 311, and 313)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1922—Compliance Monitoring Procedures*: §101, Monitoring; §105, Local Educational Agencies (LEAs); §107, Corrective Action and Sanctions; §109, Components of the Continuous Improvement Monitoring Process; §301, Categories of Monitoring; §303 Timelines; §305, On-Site Visits; §307, Regulatory Issues Reviewed On-Site; §311, Activities Conducted During the On-Site Visit; and §313, Activities/Procedures at the Completion of the On-Site Visit. Bulletin 1922 outlines the processes for special education monitoring in Louisiana. The revisions align state policy

with data privacy statutes, place local education agencies (LEAs) in tiered categories for monitoring selection: low-, moderate-, and high-risk; add types 1B and 3B charter schools to list of LEAs subject to monitoring; add LEA determinations to list strategies and components that may be utilized during the monitoring process; and allow on-site visits to be conducted by state-authorized individuals with training and experience in the program areas that are being monitored.

**Title 28
EDUCATION**

**Part XCI. Bulletin 1922—Compliance Monitoring
Procedures**

Chapter 1. Overview

§101. Monitoring

A. - B. ...

C. The quantitative data will be used to determine specific performance profiles for local educational agencies (LEAs) using data relative to a set of variables referenced in 101B. Performance profiles will be issued annually. The quantitative data will be collected in relation to a set of variables selected by a statewide group of stakeholders from various agencies and entities. This group will meet at least annually with the Department of Education (LDE) to select only specific indicators that will be used to determine a LEA's performance status. Any changes to the process shall be presented to the Special Education Advisory Panel.

D. LEAs will be placed in tiered categories for monitoring selection. The three tiers of monitoring are low-, moderate-, and high-risk. Upon validation of quantitative data, LEAs will be notified of their performance status and monitoring event.

1. LEAs designated as high-risk will receive an on-site compliance monitoring visit in order to review qualitative data specific to selected qualitative indicators that focus on the LEA's lowest performing indicator areas. Additional data may be reviewed prior to and during the on-site visit.

2. The LEAs designated as continuous improvement or have a ranking of low or moderate risk will not be targeted to receive an on-site compliance visit. Some districts may be required to develop a corrective action plan because of triggers within the data that signify concerns such as when the performance of students with disabilities is disproportionately below the state average in any of the required performance indicators. These performance indicators include, but are not limited to suspension, diploma, dropout, and state-wide assessment rates.

D.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30.414 (March 2004), amended LR 31:3104 (December 2005), LR 37:3216 (November 2011), LR 43:516 (March 2017).

§105. Local Educational Agencies (LEAs)

A. Local educational agencies (LEAs) to be monitored are:

1. city or parish school systems;
2. special school district;
3. state Board of Elementary and Secondary Education special schools;

4. type 1B, 2, 3B (if acting as their own LEA) and 5 charter schools; and

5. university laboratory schools not under the administration of a school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 43:516 (March 2017).

§107. Corrective Action and Sanctions

A. ...

B. The LDE is authorized to take actions, consistent with applicable law, necessary to ensure compliance. Failure on the part of a participating agency to comply may result in the LDE, with the approval of its governing authority, the Board of Elementary and Secondary Education (BESE), withholding funds from the said agency. Prior to withholding any funds under this Section, the LDE shall provide reasonable notice and an opportunity for a hearing conducted by the BESE to the LEA involved.

C. LDE determines the need for a corrective action plan (CAP) to address findings of non-compliance on an individual LEA case-by-case basis. If the LDE requires a CAP, it will be developed in collaboration with the LDE following the LEA's receipt of the LDE's monitoring report. The CAP shall be submitted for approval to the LDE within 35 business days of receipt of the monitoring report. However, upon receipt of the report, the LEA shall immediately begin correcting the findings of non-compliance documented in the report. The plan will address the activities the LEA will implement to correct the areas of non-compliance identified during the on-site visit as soon as possible, but in no case more than one year from the date of the notification report from the LDE.

D. - E. ...

F. When continuing non-compliance is identified, the LDE will require that an intensive corrective action plan (ICAP) be developed by the LEA in collaboration with the LDE, to address the continuing noncompliance. In conjunction with the implementation of the approved plan, the LDE will impose one or more of the following sanctions described below:

1. - 2. ...

3. direct the LEA to use IDEA part B flow-through funds on the area or areas that the LEA is non-compliant. The LEA will submit evidence to the LDE of the specific funds targeted for areas of non-compliance. The LDE will monitor the expenditure of such funds on a consistent basis;

4. ...

5. identify the LEA as a high-risk grantee and impose special conditions on the LEA's IDEA part B grant. The LDE will impose one or more of the following special conditions:

a. for each year of continuing non-compliance, withhold not less than 20 percent and not more than 50 percent of the LEA's IDEA part B grant until the LDE determines the LEA has sufficiently addressed the areas in which the LEA needs intervention;

b. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004),

amended LR 31:3105 (December 2005), LR 32:1839 (October 2006), LR 37:3216 (November 2011), LR 43:517 (March 2017).

§109. Components of the Continuous Improvement Monitoring Process

A. - B.5. ...

6. analyze FAPE tables and other mandated federal data reporting (i.e., e.g. personnel tables, child count data, LEA determinations);

7. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 32:1840 (October 2006), LR 37:3217 (November 2011), LR 43:517 (March 2017).

Chapter 3. Operational Procedures for Compliance Monitoring

§301. Categories of Monitoring

A. All LEAs are placed in performance profile categories on an annual basis. The performance profile is based upon an analysis of quantitative data collected by the LDE.

B. Monitoring will focus on the variables selected annually as risk indicators. LEAs will be ranked into tiered categories for purposes of monitoring selection. On-site visits will be determined based on a variety of compliance and performance measures. LEAs designated as high-risk will be subject to on-site compliance visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 43:517 (March 2017).

§303. Timelines

A. A schedule of LEAs selected for monitoring will be issued to LEAs by September of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 43:517 (March 2017).

§305. On-Site Visits

A. On-site visits will be conducted by individuals authorized by the state with training and experience in the program areas that they will be monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3218 (November 2011), LR 43:517 (March 2017).

§307. Regulatory Issues Reviewed On-Site

A. For high-risk LEAs, the regulatory issues, qualitative and quantitative indicators reviewed will be specific to the variables targeted in the LEA's performance profile. These visits will focus on selected issues. In the event that other critical issues or triggers are identified by means other than the performance profiles, the LDE will direct the team to monitor those issues for non-compliance. These other means may include, but are not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

B. - C.13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 43:517 (March 2017).

§311. Activities Conducted During the On-Site Visit

A. ...

B. Individuals authorized by the LDE will conduct a parent focus group meeting and interview parents to collect data/information on their satisfaction of the services provided to their children and their involvement in their children's program. At the discretion of the parent, interviews may be conducted at the school site or via teleconference.

C. During the on-site monitoring of the LEA, the monitoring team will schedule an evening town hall meeting to provide a forum for parents to engage with team members and other parents. Facilitators will be available to answer questions if parents should want to discuss a matter privately outside the group setting.

D. LDE team members will visit sites, make observations, review records, and interview personnel.

E. The team leader will meet with the LEA special education director to review administrative issues. Additional data/information may be requested if further analysis is required for determining compliance status for specific regulatory issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 43:518 (March 2017).

§313. Activities/Procedures at the Completion of the On-Site Visit

A. At the completion of the on-site visit, the team will meet to discuss, review, and analyze the team findings and to summarize their findings on LDE-issued forms. An LDE team member will meet with representatives of the LEA at the conclusion of the on-site visit.

B. - D. ...

E. The LEA, in collaboration with the LDE, will be required to design a corrective action plan that defines specific supports and resources that the LEA must have in order to implement the corrective action plan. The CAP must demonstrate how the LEA will:

1. correct each individual case of noncompliance; and
2. correctly implement the specific regulatory requirement.

F. - G. ...

H. If there is no response from the LEA within the established timelines, the LDE may implement any of the corrective actions or sanctions as described in §107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 43:518 (March 2017).

Shan N. Davis
Executive Director

1703#010

RULE

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs (LAC 28:IV.703 and 1903)

The Louisiana Board of Regents has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG17173R)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students
(TOPS) Opportunity, Performance, and
Honors Awards**

§703. Establishing Eligibility

A. - A.5.a.ii.(e). ...

* * *

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

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

TOPS Core Course	Advanced Placement
World Geography	AP Human Geography
World History	AP World History

A.5.a.ii.(f).(ii). - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 42:1882 (November 2016), LR 43:518 (March 2017).

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - B.10.c. ...

11.a. Beginning with the spring semester of 2014 through the spring semester of 2016, for a public college or university to be permitted to bill for a TOPS award amount under the provisions of Section 1903.B.6 of these rules, the college or university must include on the student fee bill line items entitled:

- i. "Tuition Only" that equals the TOPS award amount listed on the fee bill;
- ii. "TOPS Award Amount" as defined in Section 301; and
- iii. "TOPS Stipends" for TOPS Honors and Performance Award stipends. These amounts shall not be included in the "Tuition Only" or "TOPS Award Amount" line items.

b. There shall be no reference to a tuition amount on a student's fee bill other than as provided herein.

C. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333

(November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:519 (March 2017).

Robyn Rhea Lively
Senior Attorney

1703#015

RULE

Department of Economic Development Office of Business Development

General Provisions—Meetings of the Board (LAC 13:I.107)

These rules are being published in the *Louisiana Register* as required by R.S. 51:921 et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, has amended and reenacted Section 107 of the general provisions of the Board of Commerce and Industry, LAC 13:I.Chapter 1, to require broadcast of board meetings via Livestream where feasible as well as to require that the summary agenda and summary tables for all regular board meetings be published at least one week prior to the board meeting, but no later than 24 hours after the board packets were sent to board members.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 1. General Provisions

Subchapter A. General Rules

§107. Meetings of the Board

A. Open Meeting. All meetings of the board shall be subject to the open meetings law as provided in R.S. 42:1 et seq.

B. Annual Meeting. The year of the board shall begin February 1 each year. The meeting following the beginning of the year, the board shall elect its officers who shall serve until the next annual meeting or until their successors are elected.

C. Regular Meetings. The board may meet as often as it deems necessary provided that there shall be not less than four regular meetings each year. The summary agenda and the summary tables on all applications on the agenda for the regular meetings of the board shall be posted to the website at least one week prior to the meeting, but no later than 24 hours from when the board packet is provided to the board when feasible.

D. Special Meetings. A meeting may be called by the chairperson or by joint call of at least three of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board.

E. Quorum. Excluding any vacancies on the board, a majority of the members of the board shall constitute a quorum. In the absence of a quorum, a majority of the members present at the time and place of any meeting may

adjourn such meeting from time-to-time with notice given in accordance with the Open Meetings Law.

F. Parliamentary Procedure. Unless otherwise provided by law to the contrary, all meetings of the board shall be conducted in accordance with *Robert's Rules of Order*.

G. Meeting Place. The board, its committees and subcommittees, shall hold its meetings at the principal office of the board, or at such other place as may be fixed by the board. The Board of Commerce and Industry shall have its meetings and the meetings of its subcommittees broadcast via Livestream when feasible, except for those meetings or discussions which are protected from public disclosure by Louisiana confidentiality laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000), amended by the Department of Economic Development, Office of Business Development, LR 43:519 (March 2017).

Anne G. Villa
Undersecretary

1703#030

RULE

Department of Environmental Quality Office of the Secretary Legal Division

Recordkeeping for Sources Exempt from Air Permitting (LAC 33:III.501)(AQ367)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.501.B.2.e (AQ367).

R.S. 30:2054(B)(2)(b)(ix) and LAC 33:III.501.B.2.d establish an exemption from the requirement to obtain an air permit for certain very small sources of air emissions. This Rule requires owners or operators of such sources to determine and maintain records of potential criteria and toxic air pollutant emissions.

In accordance with LAC 33:III.501.B.2.d, the requirement to obtain an air permit does not apply to any source that is not a part 70 source, as defined in LAC 33:III.502, and for which facility-wide potential emissions are less than:

- 5 tons per year for each criteria pollutant as defined by the Clean Air Act;
- 15 tons per year of all such defined pollutants combined; and
- the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51.

At present, LAC 33:III.501.B.2.d does not expressly require the owner or operator of such a source to determine and maintain records of potential criteria and toxic air pollutant emissions to verify eligibility. However, R.S. 30:2054(B)(2)(b)(ix) provides that:

The secretary may adopt, promulgate, and enforce standards, limitations, and other regulations applicable to sources which are not required to obtain a permit.

The standards or regulations may include the requirement to determine, document, and maintain records to demonstrate the potential or actual emissions of the facility.

This Rule requires owners or operators of sources exempt from the requirement to obtain an air permit per LAC 33:III.501.B.2.d to determine and maintain records of potential criteria and toxic air pollutant emissions consistent with the authority provided by the statute. This Rule also requires such owners or operators to reassess and document any change in potential emissions of the aforementioned pollutants prior to effecting a modification or otherwise increasing the production rate or hours of operation above the values previously used to determine potential emissions. The basis and rationale for this Rule are to require owners or operators of sources exempt from the requirement to obtain an air permit per LAC 33:III.501.B.2.d to determine and maintain records of potential criteria and toxic air pollutant emissions. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.2.d.iii. ...

e. Recordkeeping for Sources Exempt from Permitting Requirements

i. The owner or operator of a source which is not required to obtain a permit per LAC 33:III.501.B.2.d shall determine and maintain records of potential criteria and toxic air pollutant emissions from such source.

ii. The owner or operator shall reassess and document any change in potential criteria and toxic air pollutant emissions from the source prior to effecting a *modification* as defined in LAC 33:III.111 or otherwise increasing the production rate or hours of operation above the values previously used to determine potential emissions.

iii. For purposes of this exemption, potential emissions shall mean the emissions the source is capable of emitting considering all control measures in place, utilized, and properly maintained; historical practices, including hours of operation; and the number of employees at the source.

B.3. - C.14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental

Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:1145, 1148 (April 2011), LR 37:1391 (May 2011), LR 37:3221, 3233 (November 2011), repromulgated LR 37:3507 (December 2011), amended by the Office of the Secretary, Legal Division, LR 43:520 (March 2017).

Herman Robinson
General Counsel

1703#026

RULE

Department of Environmental Quality Office of the Secretary Legal Division

Work Practice Standards During Start-up and Shutdown (LAC 33:III.2201)(AQ364)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2201.C and K (Log #AQ364).

This Rule repeals the exemption set forth in LAC 33:III.2201.C.8 and replaces it with provisions allowing the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize emissions during periods of startup and shutdown.

LAC 33:III.2201 establishes NO_x standards for certain boilers, process heaters/furnaces, stationary gas turbines, and stationary internal combustion engines located at affected facilities in the following nine parishes: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

LAC 33:III.2201.C.8 provides an exemption from the aforementioned NO_x standards “during start-up and shutdown...or during a malfunction.” Notably, this exemption does not apply to units that are shut down intentionally on a routine basis (i.e., more than once per month). This provision was approved by EPA into Louisiana’s state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule* finding that several Louisiana air quality regulations, including LAC 33:III.2201.C.8, are “substantially inadequate to meet [Clean Air Act] requirements” because they provide “automatic exemptions for excess emissions from otherwise applicable SIP emission limitations.” Consequently, EPA issued a “SIP call” directing affected states to submit corrective SIP revisions by November 22, 2016.

In this same rulemaking, EPA “revised and updated” its startup, shutdown, and malfunction (SSM) policy for SIP provisions. According to EPA’s “SSM SIP policy as of 2015” (80 FR 33976), SIP emission limitations “must be applicable to the source continuously,” but:

- do not need to be numerical in format;
- do not have to apply the same limitation (e.g., numerical level) at all times; and
- may be composed of a combination of numerical limitations, specific technological control requirements and/or work practice requirements, with each component of the emission limitation applicable during a defined mode of source operation.

In response to EPA’s SIP call, LDEQ has repealed the exemption set forth in LAC 33:III.2201.C.8 and amended Chapter 22 to allow the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize emissions during periods of startup and shutdown.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemption set forth in LAC 33:III.2201.C.8 and replace it with provisions allowing the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize emissions during periods of startup and shutdown. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.7. ...

8. Reserved.

C.9. - I.1. ...

2. The owner or operator of an affected point source granted an exemption in accordance with any part of Subsection C of this Section or required to demonstrate continuous compliance in accordance with Subsection H of this Section shall submit a written report within 90 days of the end of each ozone season to the administrative authority of any noncompliance with the applicable limitations of Subsection D or E of this Section or with the applicable work practice standards of Paragraph K.3 of this Section. The required information may be included in reports provided to the administrative authority to meet other requirements, so long as the report meets the deadlines and content requirements of this Paragraph. The report shall include the following information:

I.2.a - J.2. ...

K. Start-up and Shutdown

1. For affected point sources that are shut down intentionally more than once per month, the owner or operator shall include NO_x emitted during periods of start-up and shutdown for purposes of determining compliance with the emission factors set forth in Subsection D of this Section, or with an alternative plan approved in accordance with Paragraph E.1 or 2 of this Section.

2. For all other affected point sources, effective May 1, 2017, the owner or operator shall either comply with Paragraph K.1 of this Section or the work practice standards described in Paragraph K.3 of this Section during periods of start-up and shutdown. If the owner or operator chooses to comply with work practices standards, the emission factors set forth in Subsection D of this Section shall not apply during periods of start-up and shutdown.

3. Work Practice Standards

a. The owner or operator shall operate and maintain each affected point source, including any associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

b. Coal-fired and fuel oil-fired electric power generating system boilers and fuel oil-fired stationary gas turbines shall use natural gas during start-up. Start-up ends when any of the steam from the boiler or steam turbine is used to generate electricity for sale over the grid, or for any other purpose (including on-site use). If another fuel must be used to support the shutdown process, natural gas shall be utilized.

c. Engage control devices such as selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) as expeditiously as possible, considering safety and manufacturer recommendations. The department shall incorporate into the applicable permit for each affected facility appropriate requirements describing the source-specific conditions or parameters identifying when operation of the control device shall commence.

d. Minimize the start-up time of stationary internal combustion engines to a period needed for the appropriate and safe loading of the engine, not to exceed 30 minutes.

e. Maintain records of the calendar date, time, and duration of each start-up and shutdown.

f. Maintain records of the type(s) and amount(s) of fuels used during each start-up and shutdown.

g. The records required by Subparagraphs K.3.e and f of this Section shall be kept for a period of at least five years and shall be made available upon request by authorized representatives of the department.

4. On or before May 1, 2017, the owner or operator shall notify the Office of Environmental Services whether each affected point source will comply with Paragraph K.1 or K.3 of this Section during periods of start-up and shutdown.

a. The owner or operator does not have to select the same option for every affected point source.

b. The department shall incorporate into the applicable permit for each affected facility the provisions of Paragraph K.1 and/or K.3 of this Section, as appropriate. The owner or operator may elect to revise the method of compliance with Subsection K of this Section for one or

more affected point sources by means of a permit modification.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:748 (April 2004), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2088 (October 2007), LR 34:71 (January 2008), LR 36:60 (January 2010), amended by the Office of the Secretary, Legal Division, LR 43:521 (March 2017).

Herman Robinson
General Counsel

1703#028

RULE

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.2501 and adopted LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), LR 36:512 (March 2010), LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:522 (March 2017).

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

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

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

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

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of

inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

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

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

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

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:522 (March 2017).

§3103. Payment Methodology

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

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

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

B. Payment Calculation

1. For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report principles, along with actual Medicaid and uninsured patient charge data. Annual Medicaid costs shortfalls and unreimbursed uninsured patient costs are determined based on review and analysis of these submissions.

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

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

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

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

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

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

1. A pro rata decrease necessitated by conditions specified in §2501.B.1 for hospitals described in this Section will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all qualifying hospitals in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals in this Section based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all hospitals in this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:523 (March 2017).

Rebekah E Gee MD, MPH
Secretary

1703#042

RULE

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Developmental Disabilities
Licensing Standards (LAC 48:I.8595 and 8599)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.8595 and §8599 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities

Subchapter G. Emergency Preparedness

§8595. Emergency Preparedness Plan

A. The ICF/DD shall incorporate an all hazards risk assessment into the facility's emergency preparedness plan which is designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency. This plan shall be reviewed, updated and approved by the governing body at least annually. Upon the department's request, a facility shall present its emergency preparedness plan for review.

B. - B.13. ...

14. The facility's plan shall include how the ICF/DD will notify OHSEP and LDH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

15. - 15.f. ...

C. An ICF/DD shall electronically enter current facility information into the department's ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated before the fifteenth of each month:

- a. operational status;
- b. census;
- c. emergency contact and destination location information; and
- d. emergency evacuation transportation needs categorized by the following types:
 - i. *red*—high-risk residents who will need to be transported by advanced life support ambulance due to

dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. *yellow*—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; and

iii. *green*—residents who do not need specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. An ICF/DD shall also enter or update the facility's information upon request, or as described per notification of an emergency declared by the secretary. Emergency events may include, but are not limited to:

- a. hurricanes;
- b. floods;
- c. fires;
- d. chemical or biological hazards;
- e. power outages;
- f. tornados;
- g. tropical storms; and
- h. severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all ICFs/DD shall file an electronic report with the ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting.

a. The electronic report shall be filed, as prescribed by department, throughout the duration of the emergency declaration.

b. The electronic report shall include, but is not limited to, the following:

- i. status of operation;
- ii. availability of beds;
- iii. generator status;
- iv. evacuation status;
- v. shelter in place status;
- vi. mobility status of clients;
- vii. range of ages of clients;
- viii. intellectual levels/needs of clients; and
- ix. any other client or facility related information that is requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

D. The facility's plan shall include a process for tracking during and after the emergency/disaster for on-duty staff and sheltered clients.

E. The facility's plan shall also include a process to share with the client, family, and representative appropriate information from the facility's emergency plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3207 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:524 (March 2017).

§8599. Notification of Evacuation, Relocation, or Temporary Cessation of Operations

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ICF/DD must immediately

give notice to the Health Standards Section as well as the Office for Citizens with Developmental Disabilities (OCDD) and OHSEP as directed by filing an electronic report with the ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:524 (March 2017).

Rebekah E. Gee MD, MPH
Secretary

1703#043

RULE

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.Chapter 200 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. Definitions

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

* * *

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

* * *

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

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

documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

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

* * *

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

* * *

Facility Cost Report Period Case-Mix Index—Repealed.

Example. Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

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

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

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

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

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

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

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

a. For the cost reporting periods utilized in the next rebase of rates on or after July 1, 2017, the calendar quarter case mix index averages will be calculated using the time-weighted acuity measurement system, and be inclusive of MDS assessments available as of the date of the applicable

quarterly FCIRs. This average includes any revisions made due to an on-site CMDR.

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

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

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

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

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

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

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

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

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

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

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

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

calendar days that the assessment is considered an active assessment within a given calendar quarter.

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

B. - B.7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017).

§20003. Cost Reports

[Formerly LAC 50:VII.1303]

A. - B.1. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:541 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:526 (March 2017).

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - B. ...

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

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

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

(a). For each nursing facility, the statewide direct care and care related floor shall be apportioned between the

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

1.h. - 4.c. ...

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

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

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

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

iv. If the calculated reimbursement rate differential exceeds a positive or negative \$2, then a pass-through rate adjustment will be applied to the nursing facility provider's reimbursement rate in an amount equal to the difference between the rate differential total and the \$2 threshold, in order to ensure the nursing facility provider's reimbursement rate is not increased or decreased more than \$2 as a result of the change of the time-weighted acuity measurement system.

(a). Should the nursing facility provider, for the aforementioned rate periods, receive an adjusted nursing facility-wide average case mix index value due to a CMDR change or other factors, the facility will have their rate differential recalculated using the revised case mix index values. The \$2 reimbursement rate change threshold will

apply to the recalculated differential and associated case mix index values, not the original differential calculation.

v. If a nursing facility provider's calculated rate differential does not exceed the \$2 rate change threshold, then no pass-through rate adjustment will be applied for the applicable rate period.

D.5. - Q....

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, 3097 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), LR 43:526 (March 2017).

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

A. ...

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

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

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

C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1475 (June 2002), repromulgated LR 28:1792 (August 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:82 (January 2017), LR 43:527 (March 2017).

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

A. - C.3. ...

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

D. - E.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1349 (July 2007), amended LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:528 (March 2017).

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

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

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

B. The department shall periodically review the MDS supporting documentation maintained by nursing facility providers for all residents, regardless of payer type. Such reviews shall be conducted as frequently as deemed necessary by the department. The department shall notify nursing facility providers of the scheduled case-mix documentation reviews (CMDR) not less than two business days prior to the start of the review date and a fax, electronic mail or other form of communication will be provided to the administrator or other nursing facility provider designee on the same date identifying possible documentation that will be required to be available at the start of the on-site CMDR.

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

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

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

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

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

a. - b. ...

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

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

e. After the follow-up CMDR, if the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the following table, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The nursing facility provider's CMI and

resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. In addition, facilities found to have unsupported MDS resident assessments in excess of the threshold in column (B) of the table below may be required to enter into a documentation improvement plan with the department. Additional follow-up CMDR may be conducted at the discretion of the department.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:528 (March 2017).

§20015. Appeal Process

[Formerly LAC 50:VII.1315]

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

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2538 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:827 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:529 (March 2017).

§20029. Supplemental Payments

A. - A.2. ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Repealed.

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

5.a. - 6. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:63 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 43:529 (March 2017).

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

1703#044

RULE

Department of Insurance Office of the Commissioner

Homeowner and Fire/Commercial
Insurance Policy Disclosure Forms
(LAC 37:XIII.Chapter 153)

Under the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:1319, and R.S. 22:1332, the Department of Insurance has adopted Regulation 107. The purpose of this regulation is to promulgate the homeowner and fire/commercial insurance policy disclosure forms developed by the commissioner of insurance for use by all property and casualty insurers issuing, delivering or renewing homeowner and fire/commercial insurance policies that provide coverage for damages to property in Louisiana.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 153. Homeowner and Fire/Commercial Insurance Policy Disclosure Forms

§15301. Purpose

A. The purpose of this Rule is to adopt the homeowners and fire/commercial insurance policy disclosure forms developed by the commissioner of insurance for use by all property and casualty insurers issuing, delivering or renewing homeowners and fire/commercial insurance policies that provide coverage for damages to property in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:530 (March 2017).

§15303. Applicability and Scope

A. This Rule shall be applicable to all property and casualty insurers for all new homeowner policies and all renewals of existing homeowner policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:530 (March 2017).

§15305. Disclosure Forms

A. Every property and casualty insurer issuing, delivering or renewing homeowners or fire/commercial insurance policies that provide coverage for damage to property in Louisiana shall present to the insured as an insert in the front of the policy upon issuance, delivery or renewal the appropriate disclosure form.

B. Formatting Instructions. The text of the disclosure form should be formatted as shown in the applicable appendix in bold type of not less than a fourteen-point font.

C. Appendix A contains the form that sets forth the disclosures required by R.S. 22:1319 for use by all property and casualty insurers issuing fire/commercial policies covering property in Louisiana.

D. Appendix B contains the form that sets forth the disclosures required by R.S. 22:1332 (B)(1)-(6) for use by all property and casualty insurers issuing homeowner policies covering property in Louisiana.

E. Appendix C contains the form that sets forth the disclosures required by R.S. 22:1332 (B)(1)-(7) for use by all property and casualty insurers issuing homeowner policies for damage to property in Louisiana that use claims that do not exceed the policy deductible and that do not result in a payment either to the insured or on behalf of the insured to increase the cost of the policy premium in the future or as part of the basis for cancellation of a policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:531 (March 2017).

§15307. Rule Amendment

A. The Commissioner of Insurance reserves the right to amend, modify, alter or rescind all or any portion of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:531 (March 2017).

§15309. Severability Clause

A. If any provision of this Rule, or the application thereof to any circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this Rule are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:531 (March 2017).

§15311. Effective Date

A. The forms provided in Appendix A and Appendix B shall become effective immediately upon adoption and the form provided in Appendix C shall become effective 6 months after adoption. All forms shall continue in full force and effect until amended, modified, altered or rescinded by the commissioner of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:531 (March 2017).

§15313. Appendices

A. Appendix A

Important Information Required by the Louisiana Department of Insurance

Fire Insurance Policy Coverage Disclosure Summary (other than Homeowners)

Or

Commercial Insurance Policy Coverage Disclosure Summary
This form is promulgated pursuant to LSA-R.S. 22:1319

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

****READ YOUR INSURANCE POLICY FOR COMPLETE POLICY TERMS AND CONDITIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PROPERTY COVERAGES]

Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) or insurer for details.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible

Examples—Hurricane, Wind or Named Storm Damage.

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1319 B(3) by selecting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss for each coverage included in the policy for which a premium has been paid. The total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible(s) so that the example demonstrates a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

The following assumes no co-insurance penalty and a 2% hurricane, wind, or named storm deductible. The amounts of loss to the damaged property are \$50,000 (building) and \$20,000 (business personal property).

Limits of insurance on building	\$ 100,000
Total amount of building loss	\$ 50,000
Less 2% deductible (\$100,000 X .02)	\$ 2,000
Net payment to insured for building loss	\$ 48,000

Limits of insurance on the business personal property \$ 50,000

Total amount of business personal property loss \$ 20,000
 Less 2% deductible (\$50,000 X .02) - \$ 1,000
 Net payment to insured for business personal property loss \$ 19,000

Total net payment to insured for building and business personal property loss (\$48,000 + \$19,000) \$ 67,000

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling or building and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy, from this or another insurer, if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS****

B. Appendix B

Important Information Required by the Louisiana Department of Insurance

Homeowners Insurance Policy Coverage Disclosure Summary
 This form is promulgated pursuant to LSA-R.S. 22:1332 (B)(1-6)

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

****READ YOUR INSURANCE POLICY FOR COMPLETE POLICY TERMS AND CONDITIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PERSONAL PROPERTY COVERAGES]

Example:
 Coverage ADwelling
 Coverage B Other Structures
 Coverage C Personal Property
 Coverage D Loss of Use
 Coverage E Personal Liability
 Coverage F Medical Payments

Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) or insurer for details.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible Example—Hurricane, Wind or Named Storm Damage.

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1332 B(6) by selecting and inserting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss under each of Coverage A, B, C and D and the total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible so that there shall be a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

If the total insured value of the dwelling or Coverage A is \$200,000 and you have a 2% hurricane, wind, or named storm deductible, then your hurricane, wind or named storm deductible would be \$200,000.00 X .02 = \$4,000.00.

Losses:

Coverage A – Dwelling.....	\$15,000
Coverage B – Other Structures.....	\$ 2,500
Coverage C – Personal Property.....	\$ 3,000
Coverage D – Loss of Use.....	\$ 2,000
Total amount of all losses.....	\$22,500
Less 2% hurricane, wind or named storm deductible.....	\$ 4,000
Net payment to insured.....	\$18,500

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes but is not limited to storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS****

Claim Filing Process

There may be time limitations for filing a claim and filing of a satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement cost for the insured loss of your property, if applicable.

Payment of Claims

Depending on the terms of the insurance policy, some losses may be based on actual cash value (ACV) and other losses based on replacement cost (RC).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.
- RC involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

**Refer to your policy for the terms and conditions describing how a particular loss is to be paid.

Payment and Adjustment of Claims

Pursuant to LSA-R.S. 22:1892 and 22:1973, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and/or a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant.

In the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the claimant unless the Commissioner of Insurance promulgates a rule to extend the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster for up to an additional thirty (30) days. Thereafter, one additional extension of the period of time for initiating a loss adjustment may be allowed by the Commissioner of Insurance if approved by the Senate Committee on Insurance and the House Committee on Insurance.

All insurers shall make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after the receipt of satisfactory proof of loss of that claim.

Failure to make such payment within thirty (30) days after receipt of such satisfactory written proofs and demand thereof or failure to make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after receipt of a satisfactory proof of loss of that claim may result in a late penalty against the insurer in addition to the payment of the claim.

If the insurer is found to be arbitrary, capricious, or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the amount found to be due from the insurer to the insured, or one thousand dollars (\$1,000.00), whichever is greater, as well as attorney fees and costs, if applicable.

C. Appendix C

Important Information Required by the Louisiana Department of Insurance

Homeowners Insurance Policy Coverage Disclosure Summary
This form is promulgated pursuant to LSA-R.S. 22:1332 (B)(1-7)

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

****READ YOUR INSURANCE POLICY FOR COMPLETE POLICY TERMS AND CONDITIONS****

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PERSONAL PROPERTY COVERAGES]

Example:
Coverage A.....Dwelling

Coverage B	Other Structures
Coverage C	Personal Property
Coverage D	Loss of Use
Coverage E	Personal Liability
Coverage F	Medical Payments

Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) or insurer for details.
- If you file a claim that does not exceed the policy deductible and that does not result in a payment either to you or on your behalf, that claim may be used to increase the cost of your policy's premium in the future or as part of the basis for cancellation of your policy.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible Example—Hurricane, Wind or Named Storm Damage.

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1332 B(6) by selecting and inserting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss under each of Coverage A, B, C and D and the total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible so that there shall be a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

If the total insured value of the dwelling or Coverage A is \$200,000.00 and you have a 2% hurricane, wind, or named storm deductible, then your hurricane, wind or named storm deductible would be \$200,000.00 X .02 = \$4,000.00.

Losses:

Coverage A – Dwelling.....	\$15,000
Coverage B – Other Structures.....	\$ 2,500
Coverage C – Personal Property.....	\$ 3,000
Coverage D – Loss of Use.....	\$ 2,000
Total amount of all losses.....	\$22,500
Less 2% hurricane, wind or named storm deductible.....	\$ 4,000
Net payment to insured	\$18,500

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes but is not limited to storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

****FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS****

Claim Filing Process

There may be time limitations for filing a claim and filing of a satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement cost for the insured loss of your property, if applicable.

Payment of Claims

Depending on the terms of the insurance policy, some losses may be based on actual cash value (ACV) and other losses based on replacement cost (RC).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.
- RC involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

**Refer to your policy for the terms and conditions describing how a particular loss is to be paid.

Payment and Adjustment of Claims

Pursuant to LSA-R.S. 22:1892 and 22:1973, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and/or a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant.

In the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the claimant unless the Commissioner of Insurance promulgates a rule to extend the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster for up to an additional thirty (30) days. Thereafter, one additional extension of the period of time for initiating a loss adjustment may be allowed by the Commissioner of Insurance if approved by the Senate Committee on Insurance and the House Committee on Insurance.

All insurers shall make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after the receipt of satisfactory proof of loss of that claim.

Failure to make such payment within thirty (30) days after receipt of such satisfactory written proofs and demand thereof or failure to make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after receipt of a satisfactory proof of loss of that claim may result in a late penalty against the insurer in addition to the payment of the claim.

If the insurer is found to be arbitrary, capricious, or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the amount found to be due from the insurer to the insured, or one thousand dollars (\$1,000.00), whichever is greater, as well as attorney fees and costs, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:531 (March 2017).

James J. Donelon
Commissioner

1703#052

RULE

Department of Insurance Office of the Commissioner

Regulation 76—Privacy of Consumer (LAC 37:XIII.Chapter 99)

The Department of Insurance, pursuant to the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby has amended Regulation 76—Privacy of Consumer.

The purpose of amending Regulation 76 is to comply with the passage of the Fixing America's Surface Transportation ("FAST") Act, which was passed by the United States Congress and signed into law (Public Law 114-94; December 4, 2015). The FAST Act amended the Gramm-Leach-Bliley Act to provide an exemption from the annual privacy notice requirements required under Gramm-Leach-Bliley. As Regulation 76 mirrors the duties and responsibilities of those in the business of insurance with regards to the privacy of insurance consumer's information, any amendments to Gramm-Leach-Bliley that were passed into law should likewise be incorporated as an amendment to Regulation 76. The FAST Act amendment serves the purpose, in both federal law and the Regulation 76 amendment here, to relieve those in the business of insurance to whom it applies from duplicative privacy notice requirements, while at the same time continuing to preserve the privacy rights of insurance consumers.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 99. Regulation 76—Privacy of Consumer

Subchapter A. General Provisions

§9901. Authority

A. This regulation is adopted pursuant to R.S. 49:953(B) and R.S. 22:2 which charges the commissioner of insurance with the duty to enforce and administer all of the provisions of the Insurance Code, the purpose of which is to regulate the business of insurance in all of its phases in the public interest. Sections 501(b) and 505(a)(6) of the Gramm-Leach-Bliley Act specifically designate the Department of Insurance as the agency to establish the appropriate standards covering any person engaged in providing insurance under state law and the Fixing America's Surface Transportation Act, which provides for certain annual privacy reporting exemptions. R.S. 22:11 and R.S. 22:1595 grants the commissioner of insurance authority to promulgate rules and regulations as are necessary for the implementation of the provisions of title R.S. 22:1604 specifically refers to the protection of the interests of insurance policyholders in this state with respect to financial institution insurance sales, and R.S. 22:1595 grants the

commissioner of insurance authority to promulgate rules and regulations as may be necessary to effectuate the provisions of chapter 5, financial institution sales, in title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102, November 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94, December 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 27:548 (April 2001), amended LR 43:534 (March 2017).

Subchapter B. Privacy and Opt-Out Notices for Financial Information

§9913. Annual Privacy Notice to Customers Required

A.1. - C. ...

D. Exemption from Annual Privacy Notice. A licensee that:

1. provides nonpublic personal information to nonaffiliated third parties only in accordance with Emergency Rule 31, Regulation 76 and R.S. 22:1591-R.S. 22:1605; and

2. has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this Section, shall not be required to provide an annual disclosure under this Section until such time as the licensee fails to comply with any criteria described in Paragraphs 1 and 2 of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102, November 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94, December 4, 2015.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 27:552 (April 2001), amended LR 43:535 (March 2017).

Subchapter D. Exceptions to Limits on Disclosures of Financial Information

§9951. Severability

A. If any provision or item of Regulation 79 or the Emergency Rule 31, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items or applications of Regulation 79 or Emergency Rule 31 which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102, November 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94, December 4, 2015.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 43:535 (March 2017).

§9953. Effective Date

A. This Rule shall be effective upon adoption.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102, November 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94, December 4, 2015.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 43:535 (March 2017).

James J. Donelon
Commissioner

1703#003

RULE

**Department of Natural Resources
Office of Conservation**

Financial Security for the Plug and Abandonment of Oil and Gas Wells and Determinations of Future Utility (LAC 43:XIX.104)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX.Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendments are made to implement the provisions of Act 634 of the 2016 Regular Session of the Louisiana Legislature. The amendments reduce the per foot cost of financial security for inland wells below 3000 feet to \$2 per foot and exempt wells orphaned by the commissioner and subsequently transferred to another operator from financial security requirements.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§104. Financial Security

A. - B.4. ...

C. Financial Security Amount

1. Land Location

a. Individual well financial security shall be provided in accordance with the following.

Measured Depth	Amount
< 3000'	\$2 per foot
3001-10000'	\$5 per foot
> 10001'	\$4 per foot

C.1.b. - H. ...

I. Financial security shall not be required for the following wells:

1. any well declared to be orphaned by the commissioner and subsequently transferred to another operator, except as required by Act 583 of the 2016 Regular Session;

2. any well to be drilled by an operator who has an agreement with the office of conservation to plug a well that has been declared to be orphaned by the commissioner and that orphaned well is similar to the proposed well in terms of depth and location;

3. the provisions hereof shall not alter or affect the requirements for inactive wells given in LAC 43:XIX.137.A.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:4, et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 26:1306 (June 2000), amended LR 27:1917 (November 2001), LR 43:535 (March 2017).

Richard P. Ieyoub
Commissioner

1703#017

RULE

Department of Natural Resources Office of Conservation

Offsite E and P Waste Transfer Pipeline Systems (LAC 43:XIX.501 and 571)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendment and adoption are made to implement requirements for E and P waste transfer pipeline systems.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

EDITOR'S NOTE: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 *Louisiana Register*, page 2798, indicates the locations for the rules in each existing Section.

EDITOR'S NOTE: Chapter 5 was amended in November 2001. A chart showing the restructuring of Chapter 5 is found on page 1898 of the *Louisiana Register*, November 2001.

§501. Definitions

* * *

Transfer Pipeline System—an offsite pipeline system by which only E and P waste is transferred to a permitted in-state or out-of-state transfer station or disposal facility.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:937 (June 2003), LR 34:1421 (July 2008), LR 36:2570 (November 2010), LR 43:536 (March 2017).

§571. Requirements for E and P Waste Transfer Pipeline Systems

A. Notification

1. The Office of Conservation shall be notified in writing at least 30 days prior to installation of an offsite E and P waste transfer pipeline system. Written notification shall include the following items:

- a. the pipeline system operator/company name, address and principal officer contact information including emergency contacts;
- b. estimated timeframe construction will begin;
- c. a list of all E and P waste types to be transported via the pipeline system;
- d. a list of all E and P waste operators/generators that will utilize the pipeline system;

e. a narrative description, map(s) and schematic diagram(s) as necessary to accurately describe the geographic location of the entire pipeline system to be operated in Louisiana, the pipeline system starting and ending point and all points of entry in between, and the final in-state or out-of-state disposition of E and P waste transmitted through the pipeline system;

f. detailed plans for generator, transporter and commercial facility or transfer station operator compliance with manifesting requirements of Subsection C of this Section and LAC 43:XIX.545.

2. The Office of Conservation shall be notified in writing no later than five calendar days following completion of construction of the E and P waste transfer pipeline system. Such notification shall include the date, or anticipated date, when E and P waste transmission operations are scheduled to begin.

3. The Office of Conservation shall be notified in writing of any change in the principal officers, management, or ownership of an E and P waste transfer pipeline system within 10 calendar days of the change.

4. The Office of Conservation shall be notified in writing within five calendar days of the effective date of any change in the operational status of a pipeline system including but not limited to any changes to the items listed in Paragraph 1 of this Subsection, if and when a pipeline system, or section of the pipeline system is shut-in or removed from service, brought back into service, permanently removed from service and/or decommissioned.

B. Design, Operations and Maintenance Criteria

1. E and P waste transfer pipeline systems shall be designed, constructed, operated and maintained in a manner which is protective of public health, safety and welfare and the environment, surface water, groundwater aquifers and underground sources of drinking water.

C. Manifesting Requirements

1. All E and P waste transported via an E and P waste transfer pipeline system shall be properly manifested in accordance with LAC 43:XIX.545. E and P waste manifesting plans submitted for compliance with the notification requirements of Subparagraph A.1.f of this Section shall be approved by the Office of Conservation prior to implementation.

D. Reporting Requirements

1. Any spills which occur during the offsite transportation of E and P waste where any quantity of E and P waste is released directly to the environment, i.e., the spilled E and P waste is not completely confined within a non-earthen metal, plastic, fiberglass, concrete or other impervious containment system, shall be reported by phone to the Office of Conservation within 24 hours of the spill and other appropriate state and federal agencies in accordance with each agencies' applicable reporting requirements. A written report of the incident must be submitted within five calendar days detailing the incident and methods of corrective action. The report shall also include the identification of all operators/generators utilizing the E and P waste transfer pipeline system at the time of discharge.

2. Initiation of pipeline repair and E and P waste removal/containment system clean-up activities for any E and P waste spill remaining within a containment system not required to be reported for compliance with Paragraph 1 of

this Subsection shall commence as soon as is practicable within 24 hours of detection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 43:536 (March 2017).

Richard P. Ieyoub
Commissioner

1703#006

RULE

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

**Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303)**

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 November 1, 2016.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

**Subpart 2. Department of Public Safety and
Corrections—Hazardous Materials**

**Chapter 103. Motor Carrier Safety and Hazardous
Materials**

**§10303. Federal Motor Carrier Safety and Hazardous
Materials**

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of November 1, 2016, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations	
Part 107	Hazardous Materials Program Procedures
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers—General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings

Motor Carrier Safety Regulations	
Part 355	Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations
Part 360	Fees for Motor Carrier Registration and Insurance
Part 365	Rules Governing Applications for Operating Authority
Part 367	Standards for Registration with States

Motor Carrier Safety Regulations	
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), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 43:537 (March 2017).

Jason Starnes
Chief Administrative Officer

1703#008

RULE

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

Motor Vehicle Inspections (LAC 55:III.807 and 819)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:1304 et seq., has amended rules which require a checklist for school bus inspections and require vehicle fleets that operate in the five parish non-attainment areas (regardless of where the vehicles are registered) to have emissions testing.

**Title 55
PUBLIC SAFETY**

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter B. Safety Inspections

§807. Operation as an Official Motor Vehicle

Inspection Station

A. - H. ...

I. Motor Vehicle Inspection Log Report

1. All entries must be legible and made in ink only. The audit number of the inspection or rejection certificates issued must be listed in numerical order and must be shown on the report. All other required information must be provided for the vehicle inspected. Vehicle information will be obtained from the registration. The operator's license number must be taken from the driver's license of the person presenting the vehicle for inspection and not from the registration.

a. Stations that are required to maintain log sheets shall maintain the log sheets for 36 months.

i. General MVI Stations. A separate log shall be kept for the one- and two-year certificates.

Exception: Log sheets are not required to be utilized if a station is required to enter the inspection information on the DEQ computer system.

ii. Commercial MVI Stations. The station must maintain a copy of each commercial log sheet.

iii. School Bus MVI Stations. The station must complete and maintain a copy of each school bus inspection checklist.

2. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2424 (December 1999), amended 27:2260 (December 2001), repromulgated LR 28:345 (February 2002), amended LR 30:2859 (December 2004), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2552 (October 2012), LR 42:433 (March 2016), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 43:538 (March 2017).

Subchapter C. Vehicle Emission Inspection and Maintenance Program

§819. Anti-Tampering and Inspection and Maintenance Parameters

A. - C. ...

D. Subsections A, B, and C of this Section shall apply to those vehicles (belonging to the covered model years and vehicle classes) that are routinely operated in the five parish non-attainment area as part of a fleet, though the individual vehicles are not registered in any one of those five parishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:2260 (December 2001), LR 28:345 (February 2002), LR 30:2493 (November 2004), amended by the Department of Public

Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 43:538 (March 2017).

Jason Starns
Chief Administrative Officer

1703#009

RULE

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

**Military-Trained Individuals/Military Spouses and
Use of Seals (LAC 46:LXI.903, 909, and 2701)**

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.903, 909, and 2701.

This is a technical revision of existing rules under which LAPELS operates. The revision: (a) incorporates changes made to R.S. 37:3651 during the 2016 Regular Session relating to the licensure of military-trained individuals and military spouses; and (b) clarifies and expands the exceptions to the sealing requirements for professional engineers.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors
Chapter 9. Requirements for Certification and
Licensure of Individuals and Temporary
Permit to Practice Engineering or Land
Surveying**

§903. Professional Engineer Licensure

A. - A.6. ...

B. The requirements for licensure as a professional engineer under the alternatives provided in R.S. 37:3651(A), (B) and (C) are as follows:

1. the applicant for licensure as a professional engineer shall be a military-trained individual who has completed a military program of training in engineering at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who has been awarded a military occupational specialty in engineering, who has performed in that military occupational specialty at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who has engaged in the active practice of engineering, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice engineering in Louisiana at the time the act was committed, who is an engineer intern, or an individual who meets the qualifications to be an

engineer intern, who has a verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the examination required by the board in the principles and practice of engineering in the discipline of engineering in which licensure is sought, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be a military-trained individual who holds a current, valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

3. the applicant for licensure as a professional engineer shall be a military spouse who holds a current, valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who can demonstrate competency in the practice of engineering through an oral interview by the board, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice engineering in Louisiana at the time the act was committed, who is in good standing with and has not been disciplined by the agency that issued the license in the other jurisdiction, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2412 (August 2011), LR 38:2564 (October 2012), LR 39:1060 (April 2013), LR 39:2801 (October 2013), LR 43:538 (March 2017).

§909. Professional Land Surveyor Licensure

A. - A.2. ...

B. The requirements for licensure as a professional land surveyor under the alternatives provided in R.S. 37:3651(A), (B) and (C) are as follows:

1. the applicant for licensure as a professional land surveyor shall be a military-trained individual who has completed a military program of training in land surveying at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(4) and Subsection A herein, who has been awarded a military occupational specialty in land surveying, who has performed in that military occupational specialty at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(4) and Subsection A herein, who has engaged in the active practice of land surveying, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice land surveying in Louisiana at the time the act was committed, who is a land surveyor intern, or an individual who meets the qualifications to be a land surveyor intern, who is of good character and reputation, who has a verifiable record of four years or more of combined office and field experience in land surveying including two years or more of progressive experience on land surveying projects under the supervision of a professional land surveyor, who has passed the oral examination required by the board, who has passed the examinations required by the board in the principles and practice of land surveying and Louisiana laws of land surveying, who was recommended for licensure by five personal references (at least three of whom must be professional land surveyors who have personal knowledge of the applicant), who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant for licensure as a professional land surveyor shall be a military-trained individual who holds a current, valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(4) and Subsection A herein, who is of good character and reputation, who has passed the examinations required by the board in the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

3. the applicant for licensure as a professional land surveyor shall be a military spouse who holds a current, valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S.

37:693(B)(4) and Subsection A herein, who can demonstrate competency in the practice of land surveying through an oral interview by the board, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice land surveying in Louisiana at the time the act was committed, who is in good standing with and has not been disciplined by the agency that issued the license in the other jurisdiction, who is of good character and reputation, who has passed the examinations required by the board in the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:1619 (September 2006), LR 35:1909 (September 2009), LR 37:2413 (August 2011), LR 38:2564 (October 2012), LR 39:2802 (October 2013), LR 43:539 (March 2017).

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 2.f. ...

* * *

3. Seal Responsibility

a. ...

b. Responsible Charge

i. - i.(d).(ii). ...

ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering and land surveying documents developed by others not under his/her responsible charge, except:

(a). in the case of an individual Louisiana professional engineer checking and taking the professional responsibility for the work of an engineer who is not licensed in this state but is properly licensed in the jurisdiction of origin of such work, the Louisiana professional engineer shall completely check and have responsible charge of the work. Such responsible charge shall include possession of the sealed, signed and dated reproducible drawings, with complete sealed, signed and dated calculations indicating all changes;

(b). certification of standard plans which were initially prepared, sealed and signed by an engineer who is not licensed in this state but is properly licensed in the jurisdiction of origin of such plans. Such plans may then be reviewed by a Louisiana professional engineer for code conformance, design adequacy, and site adaptation for the specific application within Louisiana. The Louisiana professional engineer assumes responsibility for such plans.

The plans, which already bear the seal and signature of the engineer who is not licensed in this state but is properly licensed in the jurisdiction of origin of such plans, shall also be sealed, signed and dated by the Louisiana professional engineer who is assuming responsibility. In addition to the Louisiana professional engineer's seal, signature and date, a statement shall be included on the plans as follows;

"These standard plans have been properly examined by me, the undersigned Louisiana professional engineer. I have determined that these plans comply with all applicable Louisiana codes and have been properly site adapted to use in this area."

(c). certification of standard plans, including special details, which were initially prepared by the Department of Transportation and Development and signed and dated by such agency's chief engineer, but which are not for use on such agency's projects. Such plans may then be reviewed by another professional engineer for code conformance, design adequacy, and site adaptation for the specific application. The other professional engineer assumes responsibility for such plans. The plans, which already bear the signature of the agency's chief engineer, shall be sealed, signed and dated by the other professional engineer who is assuming responsibility. In addition to the other professional engineer's seal, signature and date, a statement shall be included on the plans as follows;

"These standard plans have been properly examined by me, the undersigned professional engineer. I have determined that these plans comply with all applicable codes and have been properly adapted to use on this project."

(d). certification of single family residential design plans for conformance with applicable state and local building codes. Such plans shall be sealed, signed and dated by the professional engineer who is making such certification. In addition to the professional engineer's seal, signature and date, a statement shall be included on the plans as follows.

"These single family residential design plans have been properly examined by me, the undersigned professional engineer. I have determined that these plans comply with the following applicable codes for the jurisdiction in which the residence is to be located (*check all that apply*): structural; mechanical; electrical; plumbing."

iii. - iii.(c). ...

4. Seal Use

a. - b.ii. ...

c. Exempt Work

i. - i.(e). ...

ii. No seal shall be required on standard plans, including special details, which are prepared by the Department of Transportation and Development and signed and dated by such agency's chief engineer for use on such agency's projects.

5. - 5.b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying

Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:1910 (September 2009), LR 38:1418 (June 2012), LR 39:1481 (June 2013), LR 42:443 (March 2016), LR 43:540 (March 2017).

Donna D. Sentell
Executive Director

1703#023

RULE

Workforce Commission Plumbing Board

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

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

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

Employing Entity—Repealed.

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

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

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

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

1. the installation or maintenance of piping by any entity of a municipal or gas district system that is subject to the regulatory authority of the Public Service Commission, the New Orleans City Council, or the Office of Pipeline Safety in the Department of Natural Resources;

2. any work done by a person who is licensed by the Louisiana Liquefied Petroleum Gas Commission or any other services performed pursuant to such a license.

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

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:575 (April 2016), LR 43:541 (March 2017).

Chapter 3. Licenses

§301. Licenses Required

A. - L. ...

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

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

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

P. No natural person shall engage in the work of a master gas fitter unless he possesses a master gas fitter's license or renewal thereof issued by the board. The board shall issue a master gas fitter license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a master gas fitter if he passes a written examination given by the board and pays the fees established by the board. A written examination shall not be

required for persons applying pursuant to §310.F. A master gas fitter shall not engage in the work of a gas fitter unless he also possesses a gas fitter's license issued by the board or previously possessed a gas fitter's license issued by the board. A person issued a master gas fitter's license shall designate to the board, as required by the rules of the board, an employing entity, which may be a corporation, partnership, or sole proprietorship. A licensed master gas fitter shall notify the board of any change of employment status with an employing entity within 30 days of the effective date of change in employment status. A master gas fitter shall designate no more than one employing entity at any time. The board may charge a reasonable fee for processing such redesignations.

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

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

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

T. Temporary working permits to gas fitters may be issued as required by R.S. 37:1376 and may be issued to a holder of a state license from states with like examinations, should that state recognize the Louisiana license, or where

other bona fide evidence shows that the applicant's past experience would be capable of protecting the public from defective gas fitting. Each temporary permit must be signed by both the chairman and the secretary of the board. A reasonable fee may be charged for the issuance of temporary permits, as fixed by the board (see §312).

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

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

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

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:541 (March 2017).

§303. Application for License

A. - F. ...

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

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

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

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

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:542 (March 2017).

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

A. Requirements

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

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

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

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

5. He must attach a money order or check for the appropriate fee to the application. The fee is established in §310.

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

B. Regular quarterly examinations will be held on the first Saturday of January, April, July and October in the City of Baton Rouge, or on such days specially set by the board. Regularly scheduled examinations are subject to

postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:543 (March 2017).

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

A. Requirements

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

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

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

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

5. He must attach a money order or check for the appropriate fee to the application. The fee is established in §312.

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:543 (March 2017).

§310. Renewals

[Formerly §307]

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

B. All renewal applications received at the board's office later than midnight the last day of December will be delinquent and will require a revival fee in addition to the renewal fee. Any license not renewed by the last day of December will pay a revival fee, in addition to the renewal fee, if renewed between January 1 and March 31. Any

license renewed after March 31, will require an increased revival fee, in addition to the renewal fee. The fees are set forth in §312. Any person performing the work of a gas fitter, master gas fitter, journeyman plumber or a master plumber without the appropriate license issued by the board after March 31 of any year without having renewed his license from the immediately preceding year shall be subject to the special enforcement fee established in §307.G or §308.G.

C. A person who has allowed his previously-issued journeyman plumber or master gas fitter license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$50 per year for each year the license was not renewed up to a limit of four consecutive years. However, any such person who performs the work of a journeyman plumber without possessing a license issued by the board during this period shall be subject to the special enforcement fee established in §305.H.

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

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

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

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

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

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

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

e. that prior to July 1, 2016 he held a master plumber license issued by the board and performed gas fitter

work verified by at least three invoices or building permits as proof of work performance.

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

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated LR 2:419 (December 1976), amended LR 7:588 (November 1981), amended by Department of Employment and Training, Plumbing Board, LR 17:52 (January 1991), LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), LR 43:544 (March 2017).

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

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

B. The employing entity shall maintain:

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended by Department of Employment and Training, Plumbing Board, LR 17:53 (January 1991), amended LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 19:897 (July 1993), LR 25:1856 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 43:545 (March 2017).

§312. Fees

[Formerly §309]

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

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

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

1. special examinations—\$500;
2. examinations—\$100;
3. initial license fee—\$180;
4. renewal fee—\$180;
5. revival fee—\$60;
 - a. if renewed after March 31—\$120;
6. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)—50 percent of exam fee;
7. fee for N.S.F. or returned check—\$20;

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

9. inactive master plumber fee—\$30;

10. fee for conversion of inactive master plumber license to active master plumber—\$150;

11. employing entity redesignation fee—\$150;

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

13. special daily enforcement fee imposed under §311.H—\$10/day, not to exceed \$500 in the aggregate.

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

1. special examinations—\$500;

2. examination—\$95;

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

4. renewal fee—\$30;

5. revival fee—\$10;

a. if renewed after March 31—\$20;

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

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

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

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

1. special examinations—\$500;

2. examination—\$50;

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

4. renewal fee—\$10;

5. revival fee—\$10;

a. if renewed after March 31—\$20;

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

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

8. special enforcement fee imposed under §313.K—\$500.

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

1. application fee—\$200;

2. renewal fee—\$200;

3. revival fee—\$65;

a. if renewed after March 31—\$130.

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

1. special examinations—\$500;

2. examinations—\$125;

3. ADA accommodation examinations—\$150;

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

5. renewal fee—\$40;

6. revival fee—\$15;

a. if renewed after March 31—\$ 30;

7. temporary permits—\$75;

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

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

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

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

1. special examinations—\$500;

2. examinations—\$100;

3. initial license fee—\$180;

4. renewal fee—\$180;

5. revival fee—\$60;

a. if renewed after March 31—\$120;

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

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

8. special enforcement fee imposed under §307.G—\$500;

9. inactive master gas fitter fee—\$30;

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

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

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

13. special daily enforcement fee imposed under §311.H—\$10/day, not to exceed \$500 in the aggregate.

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated LR 7:588 (November 1981), amended LR 15:1089 (December 1989), amended by the Department of Employment and Training, Plumbing Board, LR 16:23 (January 1990), LR 17:53 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:898 (July 1993), LR 19:1594 (December 1993), LR 21:1351 (December 1995), LR 26:327 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 43:545 (March 2017).

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

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

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

C. As authorized by R.S. 37:1368(H), the board shall recognize and certify certain programs of education and training of water supply protection offered by private or public organizations or institutions compliant with *ASSE International, Cross-Connection Control Professional Qualifications Standard ASSE Series 5000*. A journeyman or master plumber licensed by this board who successfully completes any such program shall qualify for admission to an examination offered under Subsection A of this Section. Any such organization must satisfy the board that its program or programs includes training and testing as specified in the *ASSE Series 5000, Standard 5110, Professional Qualifications for Backflow Prevention Assembly Testers*.

D. Courses of instruction defined in §311.C must be provided by a person or persons meeting the credentials and requirements of *ASSE Series 5000, Standard 5110, Professional Qualifications Standard for Backflow Prevention Assembly Testers and ASSE International Guidelines for Cross-Connection Control Certification*.

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

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

G. An applicant for a water supply protection specialist endorsement must attach to his application a money order or check for the appropriate fee established in §312 of these regulations.

H. Regular quarterly examinations for water supply protection specialist endorsements may be held in conjunction with examinations for journeyman or master

plumber license applications, or on such days specially set by the board. Interested persons shall be notified of the examination schedule.

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:1859 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), repromulgated LR 43:546 (March 2017).

§314. Integrity of Examination [Formerly §311]

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

B. The board is empowered to act upon reports of violation of Subsection A of this Section by examinees received from private or public organizations recognized as examiners under §§304.H, 306.F, 313.F or 315.E and impose sanctions as described in Subsection A of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), amended LR 26:328 (February 2000), repromulgated by the Workforce Commission, Plumbing Board, LR 43:547 (March 2017).

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

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

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

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

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

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

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

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

D. An applicant for a medical gas and vacuum systems verifier license must attach to his application a money order or check for the appropriate fees established in §312 of these regulations.

E. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), repromulgated LR 43:548 (March 2017).

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:330 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:578 (April 2016), repromulgated LR 43:548 (March 2017).

Chapter 9. Revocation and Related Administration Proceedings

§901. Revocation, Suspension and Probation Procedures

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

B. - K.2. ...

3. Suspension

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

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

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1352 (December 1995), LR 26:331 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 43:549 (March 2017).

Chapter 10. Continuing Professional Education Programs

§1002. Gas Fitters and Master Gas Fitters

A. CPE Requirement

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

2. All persons seeking to renew a master gas fitter's license or to convert an inactive master gas fitter's license to

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

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

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

B. Course Materials

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

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

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

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

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

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

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

8. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

9. All course materials must have the following characteristics:

- a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;
- b. appropriate illustrations and graphics to show concepts not easily explained in words; and
- c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

10. The publishers of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials. Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

“THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD.”

11. The publishers of course materials will conduct instructor training in the use of course materials.

12. Any individual, business or association who wishes to offer to publish course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board.

13. The Louisiana State Plumbing Board may refuse to accept any application for approval as a publisher of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

- a. failure to comply with the provisions of this Section;
- b. inadequate coverage of the materials required to be included in course materials; or
- c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

14. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

15. A publisher's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

16. To be approved, 10 copies of course materials, including any handouts and audio/visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier) for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 10 copies each of all

course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

17. Upon a showing of compelling necessity, the plumbing board, in its discretion, may grant an exception to the requirement that material be submitted prior to the plumbing board's November meeting, and, pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the plumbing board, which otherwise meets the requirements of this Section.

18. A publisher's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Providers

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of journeymen and master licenses issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

- a. for gas fitters a minimum of 2 classroom hours presented on one day; or
- b. for master gas fitters, 3 1/2 hours on one day; or
- c. for gas fitters not less than two sessions of 1 classroom hour each presented within a 30-day period; or
- d. for master gas fitters, two sessions totaling 3 1/2 classroom hours presented within a 30-day period.

3. Not less than 1/2 hour of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Not less than 1 1/2 hours of the master gas fitters' class will be on business topics approved by the Louisiana State Plumbing Board.

5. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

6. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

7. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

8. Each course provider shall furnish a uniquely numbered certificate of completion of CPE to each licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

9. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within ten days of completion.

10. The board is authorized to enter into a cooperative endeavor agreement with either the Louisiana Association of Plumbing, Heating and Cooling Contractors of Louisiana or the Louisiana Pipe Trades Association, or any subsidiary or affiliate of either non-profit organization, to jointly provide CPE services to licensed and master gas fitters. The board is authorized to share costs and expenses with either organization under terms and conditions that promote the public interest and avoid gratuitous donation of public funds.

11. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

12. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

13. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Provider Instructors

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting (whichever is earlier) for approval by the Louisiana State Plumbing Board at its November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. Course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

- a. name and address of the applicant;
- b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, internet website or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's certificate of completion of CPE;

i. All CPE class scheduling plans shall provide for courses equally across the state. Course providers must, at a minimum, offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; any CPE provider for gas fitting shall conduct both plumber/gas fitter combination CPE classes and standalone gas fitting CPE classes. The State Plumbing Board Louisiana or its director may, solely at their discretion, grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and

1. an application fee to be set as provided by law.

3. The course provider shall purchase course materials from the State Plumbing Board of Louisiana and may not charge the licensees more than the maximum cost set out by the course material provider.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of gas fitter and master gas fitter licenses. Louisiana State Plumbing Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

- a. all course instructors for master gas fitters must hold a Louisiana state master gas fitter's license, and those for gas fitter must hold a master's or gas fitter license; and
- b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and
- c. must be employed by an approved course provider.

2. An approved course instructor may use, under its live supervision, a non-licensed supplemental lecturer to present additional materials as required. Prior to approval, a course instructor must identify to the board, any supplemental lecturer they intend to use, including a resume from the supplemental lecturer, and the subject matter the supplemental lecturer will discuss within 30 days prior to the course being conducted.

3. Course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

- a. be well versed in and knowledgeable of the course materials;
- b. maintain an orderly and professional classroom environment; and
- c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a course instructor, in accord with the Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:549 (March 2017).

James Finley
Chairman

1703#047

Notices of Intent

NOTICE OF INTENT

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

Equine (LAC 7:XXI.Chapters 5 and 9)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry (department), through the Office Animal Health and Food Safety and the Board of Animal Health intend to amend the following regulations regarding equine: LAC 7:XXI.521-525 and Chapter 9. This revision of the equine rules is primarily a reorganization of the rules and an attempt to take out sections which are duplicative or no longer necessary. The proposed rules allow for electronic submission of EIA tests by a laboratory. Proposed §913 reorganizes and combines current §§913, 917 and 919. The proposed Rule changes the requirement for EIA testing from every 6 months to every 12 months. Previously, the rules were inconsistent on how often EIA testing was required. Proposed §913 also exempts a nursing foal under seven months of age accompanying its dam from EIA testing. Proposed §915 is the same in substance as current §931. Proposed §917 is the current §915. The proposed Rule removed redundancies from the current Rule and was updated to allow electronic VS forms. The proposed Rule requires all laboratories that perform official EIA testing to be in compliance with 9 CFR 75.4(C). In addition, proposed §917 requires EIA testing laboratories to submit a monthly report to the Office of the State Veterinarian of all positive and negative testing numbers. Proposed §919 adds Subsection B regarding falsification of EIA documents. Proposed §921 changes the phrase “cause end of life” to “cause euthanization” or “euthanize” in two places; otherwise, it remains the same. The proposed revision of the equine regulations also repeals §§925, 927, 929, 931, 933, and 935.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Animals and Animal Health

Chapter 5. Entry Requirements to admit Animals into this State and into Events

Subchapter C. Specific Entry Requirements for Horses and other Equine

§521. General Requirements Governing the Admission of Equine (Formerly §501)

A. All equine imported into the state shall meet the general requirements of §501 and the following specific requirements.

1. All equine moving into Louisiana for any purpose other than consignment to an approved Louisiana livestock auction market or an approved slaughter establishment for immediate slaughter shall be accompanied by a record of a negative official test for equine infectious anemia (EIA)

conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number and the date of the official test shall appear on the health certificate as required in §523.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2053.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April 1994), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:945 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

§523. Admission of Equine to Fairs, Livestock Shows, Breeders Association Sales, Rodeos and Racetracks (Formerly §503)

A. All equine moving into and within the state of Louisiana to fairs, livestock shows, breeder's association sales, rodeos, racetracks or any other concentration point, must meet general requirements of §503 and shall be accompanied by a record of a negative official test for equine infectious anemia (EIA), conducted within the past 12 months. The official test shall be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of the official test shall appear on the record.

B. Representatives of the Board of Animal Health may inspect equine at the shows periodically, and any equine showing evidence of a contagious or infectious disease shall be isolated and/or removed from the show.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:222 (April 1988), LR 20:405 (April 1994), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:946 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

§525. Movement of Equine in Louisiana by Livestock Dealers (Formerly §505)

A. All equine which are sold or offered for sale by livestock dealers, must meet the general requirements of §305 and the following specific requirements.

1. All equine sold or offered for sale by permitted Louisiana livestock dealers must be accompanied by an official record of a negative official test for equine infectious anemia, conducted at an approved laboratory, within the past 12 months. The record shall include the name of the laboratory, the case number and the date of the official test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:502.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, Board of Animal Health, LR 11:243 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 14:223 (April 1988), LR 20:406 (April 1994), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:946 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**Chapter 9. Horses and other Equines
(Formerly Chapter 5)**

**Subchapter A. General Provisions
(Formerly §511)**

§903. Definitions

A. Wherever in these EIA rules and regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

* * *

EIA Positive Equine—an equine that has completed an EIA test with a positive ELISA test result, confirmed with a positive AGID test result at Louisiana Animal Disease Diagnostic Laboratory or National Veterinary Services Laboratory.

* * *

In the Presence of—coming within 200 yards of the animal or object referred to.

Livestock Dealer—any person engaged in the buying and selling of livestock permitted by the board. Any person, who buys and sells the same livestock within 30 days and has engaged in five or more purchases and/or sales of the same livestock within any 12-month period, is said to be engaged in the business of buying and selling livestock.

Owner—any person who, in any form, possesses, has custody of, or has an ownership interest in an equine. A person is an owner during the period of time of the described relationship. A parent or tutor of an owner who is a minor is also an owner during the period of time that the owner-parent or tutor's minor resides with the parent or tutor. A curator of an owner who has been interdicted is an owner during the period of time that the interdict is an owner.

* * *

Written Proof of EIA Test—the VS Form 10-11 or electronic equivalent, approved by the board, completed by an approved EIA testing laboratory which, when completed, provides the name of the laboratory, the case number, the date of completion of the EIA test, the equine owner's name, address, telephone number and permanent individual identification of the equine and the test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 23:943 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:960 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

Subchapter B. Equine Infectious Anemia (EIA)

**§913. Equine Infectious Anemia
(Formerly §§507, 917 and 919)**

A. Identification. Beginning February 1, 1994, all equine prior to an official test for equine infectious anemia (EIA) shall be individually and permanently identified by one of the following means:

1. implanted electronic identification transponder with individual number;
2. individual lip tattoo;
3. individual hot brand or freeze brand.

B. Equine Required to be Tested

1. All equine residing in Louisiana shall be tested for EIA at least every 12 months. It shall be the responsibility of the owner to ensure any and all testing of equine in their possession.

2. All equine moving into the state of Louisiana for any purpose other than immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in §523 except nursing foals under 7 months of age accompanying its dam.

3. All equine within the state or moving within the state to fairs, livestock shows, breeder's association sales, rodeos, racetracks, or to any other concentration point, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

4. All equine, except nursing foals under 7 months of age accompanying its dam, sold or purchased in Louisiana shall have been officially tested negative for EIA within 12 months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase. The official test shall be conducted at an approved laboratory. The official test record shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test, except as provided in this Subsection.

a. An equine offered for sale at a Louisiana public livestock auction market shall be tested for EIA at the auction market prior to sale if the equine has not been tested or is not accompanied by a current negative official EIA test record. The blood sample for the EIA test shall be drawn by an accredited veterinarian and submitted for an official EIA test in accordance with these regulations. The veterinarian's fee for this service shall be collected from the seller by the auction market and paid directly to the veterinarian. An equine without a current negative official EIA test record that is sold at an auction market may be moved to the buyer's premises under a Board of Animal Health quarantine after the blood sample is taken and the veterinarian and identification fees are paid. The equine shall remain under quarantine until the official test results show that the animal is an EIA negative equine.

C. Equine Positive to the Official EIA Test

1. With the exception of the equine stabled at a racetrack regulated by the state Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owner's premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Board of Animal Health personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility. The owner or trainer of all equine stabled at a racetrack regulated by the state Racing Commission testing positive to an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Board of Animal Health personnel and the equine testing positive shall be removed from the racetrack premises immediately. Exceptions are:

a. upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. The female equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder. The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time the female equine shall be destroyed or sold for immediate slaughter within 20 days. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Board of Animal Health personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility;

b. any foal kept in quarantine with its EIA positive dam shall be officially tested for EIA no later than 150 days after it is weaned.

2. All equine stabled at a racetrack regulated by the state Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack shall be quarantined to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Board of Animal Health personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

3. With the exception of the equine stabled at a racetrack regulated by the state Racing Commission, the following shall be quarantined and officially tested for EIA no sooner than 30 days after the positive equine has been removed:

a. all equine on the same premises as an equine testing positive to the official EIA test;

b. all equine on all premises within 200 yards of the premises of the equine testing positive to the official EIA test; and

c. all equine which have been on these aforementioned premises within the past 30 days at the time the equine which is positive to the official EIA test was tested.

4. All equine stabled at a racetrack regulated by the state Racing Commission which are stabled in the same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in Paragraphs 3 and 4 of this Subsection may be tested by an accredited veterinarian chosen by the owner or by a state employed veterinarian if requested by the owner of the quarantined equine. In the event that the official testing for EIA is done by a state employed veterinarian, the official record (VS Form 10-11) will not be made available to the owner.

6. Equine positive to the official test for EIA shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Board of Animal Health personnel. Equine positive to the official test for EIA will be retested prior to identification by branding upon request by the owner, by Board of Animal Health personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:967 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

§915. Equine Quarantine Holding Area (Formerly §931)

A. Any person desiring to operate an equine quarantined holding area must file a written application for approval of the facility to the board and shall have:

1. the equine quarantined holding facility and area inspected and approved by the board; and
2. agreed, in writing, to comply with these EIA rules and regulations.

B. No other equine except equine consigned for slaughter shall be kept in an equine quarantined holding area and all equine held therein shall be "S" branded.

C. No equine shall be kept in the equine quarantined holding area longer than 60 days by which time the life of any such equine shall be ended.

D. No equine shall be released from an equine quarantined holding area except to be delivered direct to slaughter.

E. The equine quarantined holding area shall be an area where EIA positive equine, "S" branded equine or both are kept at least 440 yards from all other equine at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:967 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

§917. Approved Equine Infectious Anemia Testing Laboratories (Formerly §915)

A. No person shall operate an approved EIA testing laboratory without first obtaining approval from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, and from the Board of Animal Health.

B. The conditions for approving an EIA testing laboratory are as follows.

1. Any person applying for an EIA testing laboratory approval must submit a written application for approval by the board to the office of the state veterinarian.

2. An inspection of the facility must be made by a representative of the Office of the State Veterinarian or the USDA/APHIS/VS who shall submit a report to the board indicating whether or not the person applying for an EIA testing laboratory approval has the facilities and equipment which are called for by the United States Department of Agriculture, Veterinary Services. Any person or laboratory that performs an official EIA test must meet and be in compliance with the requirements found in title 9, CFR 75.4(c) and with protocols in the latest USDA VS EIA laboratory guidance.

3. If the application is given preliminary approval by the board, the person applying will proceed with successful completion of training, examination, and inspection by the United States Department of Agriculture.

C. Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

1. Approved EIA testing laboratories must maintain a work log clearly identifying each individual blood sample, EIA test result and VS Form 10-11 or electronic equivalent approved by the board, all of which must be preserved and available for inspection, for a period of time of not less than 24 months from the date of the EIA test.

2. Approved EIA testing laboratories must maintain on file and make available for inspection a copy of all VS 10-11 forms or electronic equivalent approved by the board, for a period of 24 months.

3. Approved EIA testing laboratories shall immediately report by telephone and facsimile or email all positive EIA test results to the state veterinarian's office within 24 hours of detection.

4. The state veterinarian shall renew the approval of approved EIA testing laboratories in January of each year, provided the approved EIA testing laboratories maintain the standards required by this regulation and by the United States Department of Agriculture requirements found in 9 CFR 75.4(c) and with protocols in the latest USDA VS EIA laboratory guidance.

5. Approved EIA testing laboratories must submit a report of all positive and negative testing numbers to the

Office of the State Veterinarian each month in a reporting format as prescribed by the Board.

6. Approved EIA testing laboratories must submit the white original of each VS Form 10-11 or electronic equivalent approved by the board each month to the Office of the State Veterinarian.

7. Approved EIA testing laboratories may charge a fee to the testing veterinarian for conducting an EIA test.

D. All records of EIA tests conducted by an approved EIA testing laboratory shall contain the name of the approved EIA testing laboratory.

E. An approved EIA testing laboratory may have its approval canceled if the board finds that the approved laboratory has failed to meet the requirements of the EIA rules and regulations, has falsified its records or reports, or has failed to maintain the standards required by this regulation and by the United States Department of Agriculture requirements found in title 9, CFR 75.4(c) and with protocols in the latest USDA VS EIA laboratory guidance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:966 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

§919. Penalties (Formerly §923)

A. The penalty for a violation of these EIA rules and regulations shall be a fine of up to \$1,000 for each violation. With regard to continuing violations, whether acts or omissions, each day a violation occurs or continues shall be a separate violation.

B. Any person, whom knowingly falsifies information on an official EIA document, alters an official EIA document or uses falsified/altered EIA documents for the purpose of fraud shall be in violation of these regulations and subject to a fine of up to \$1,000 for each violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:966 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

§921. Enforcement (Formerly §925)

A. In addition to those relevant provisions of law, the board may do the following, as is necessary, to carry out the board's powers and duties and to accomplish the purpose of the EIA eradication program.

1. The board may brand and permanently, individually identify equine.

2. The board may quarantine equine, EIA-positive equine and equine in their presence, cause euthanization of EIA-positive equine, euthanize the EIA-positive equine or cause the sale of EIA-positive equine for slaughter.

3. An authorized agent of the board may enter any premises or place where equine are present during reasonable hours with or without prior notice for the purpose of determining whether these EIA rules and regulations have been violated and to inspect the equine for the presence of EIA and exposure related to EIA. A testing veterinarian employed by the board may draw blood samples from the equine present for the EIA test.

4.a. Any authorized agent of the board shall have access to, and may enter at all reasonable hours, all places of business dealing in or with equine and all places of business where books, papers, accounts, records, or other documents related to equine are maintained.

b. The board may subpoena, and any authorized agent of the board may inspect, copy, audit or investigate any of the books, papers, accounts, records, or other documents pertaining to equine, all for the purpose of determining whether there is compliance with the provisions of R.S. 3:2091-2100, and with these EIA rules and regulations.

c. The authority granted in Subparagraph b of this Paragraph shall also extend to books, papers, accounts, records, or other documents of persons doing business with the above referenced places of business.

5. The board may apply to a court of competent jurisdiction for a warrant to conduct any reasonable searches and seizures as is necessary to carry out the board's powers and duties not already provided for in these EIA rules and regulations.

6. The board may issue written orders in preventing, controlling or eradicating EIA, and a violation of any such order shall constitute a violation of these EIA rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:966 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**§923. Severability
(Formerly §935)**

A. If any part of these EIA rules and regulations is declared to be invalid for any reason by any court of competent jurisdiction, said declaration shall not affect the validity of any other part not so declared.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Board of Animal Health, LR 23:949 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:968 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**§925. Enforcement
(Formerly §525)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:966 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**§927. Fees
(Formerly §527)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:966 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**§929. Approved Equine Infectious Anemia Testing Laboratories
(Formerly §529)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:966 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**§931. Equine Quarantined Holding Area
(Formerly §531)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:967 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**§933. General Provisions—Equines
(Formerly §533)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:948 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:967 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

**§935. Severability
(Formerly §535)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:949 (August 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:968 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 43:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to John Walther, Assistant Commissioner of Animal Health and Food Safety, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 4000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on May 4, 2017. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Equine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any costs or savings to state or local governmental units. This proposed rule reorganizes chapters 5 and 9 under Part XXI Animals and Health, which relates to equine regulation, by combining sections that are duplicative and deleting sections that are no longer necessary. The proposed rule also allows veterinarians to electronically submit Equine Infectious Anemia (EIA) tests, changes the requirement for EIA testing from every six months to every twelve months, and exempts a nursing foal under seven months of age accompanying its dam from EIA testing.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in an increase or decrease in revenue collections to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes the requirement for EIA testing from every six months to every twelve months for equine that are being offered for sale. This can reduce the number of EIA tests that an owner is required to purchase. However, it should be noted that the proposed rule change also removes the \$18 maximum that a veterinarian can charge for an EIA testing fee. The veterinarian will be allowed to determine the price he or she charges for this testing. Though this cap is being removed, it has not been enforced for several years. Also, due to the ability of veterinarians to electronically submit EIA tests, the veterinarian may save on printing costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to have an effect on competition or employment.

Dane K. Morgan
Assistant Commissioner
1703#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Secondary Hazardous Materials
(LAC 33:V.105, 109, and 322)(HW118)

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 Hazardous Waste regulations, LAC 33:V.105, 109, and 322 (HW118).

This Rule requires all secondary hazardous materials (materials that are recycled or re-used in industrial processes) to be managed as if they were already hazardous wastes that have been discarded. It also requires that the uses of secondary hazardous materials as ingredients and the products created with the materials, be evaluated for legitimacy. Any facility that utilizes hazardous secondary

materials will be required to conduct an evaluation of its industrial uses and practices for managing hazardous secondary materials. The basis and rationale for this Rule are to meet EPA mandatory adoption requirements. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A.1. - C.6. ...

D. Exclusions

1. Materials that are not Solid Wastes. The following materials are not solid wastes for the purpose of this Subpart:

a.i. - w.vi. ...

x. hazardous secondary material generated and legitimately reclaimed within the United States of America or its territories and under the control of the generator is not a solid waste, provided that the material complies with the following conditions:

i. the hazardous secondary material is generated and reclaimed at the generating facility (for purposes of this definition, *generating facility* means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator); or

ii. the hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a *person*, as defined in LAC 33:V.109; and

(a). the generator provides one of the following certifications:

(i). “On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.”; or

(ii). “On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.” For purposes of this Paragraph, *control*

means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different *person* as defined in LAC 33:V.109 shall not be deemed to “control” such facilities;

(b). the generating and receiving facilities must both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain:

(i). the name of the transporter;

(ii). the date of the shipment; and

(iii). the type and quantity of the hazardous secondary material shipped or received under the exclusion;

(iv). these record-keeping requirements may be satisfied by maintaining routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations); or

iii. the hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following: “On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process.”; and

(a). the tolling contractor must maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer; and

(b). the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor; and

(c). for both the tolling contractor and the tolling manufacturer, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations). For purposes of this Paragraph:

(i). *tolling contractor*—a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer;

(ii). *toll manufacturer*—a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor;

iv. the hazardous secondary material is contained as defined in LAC 33:V.109, *contained*. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the

purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a solid waste;

v. the hazardous secondary material is not speculatively accumulated, as defined in LAC 33:V.109, *accumulated speculatively*;

vi. notice is provided as required by LAC 33:V.105.Q;

vii. the material is not otherwise subject to material-specific management conditions under LAC 33:V.105.D.1 when reclaimed (except as provided for in LAC 33:V.105.R.6.e) and it is not a spent lead-acid battery;

viii. persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all four factors in LAC 33:V.105.R. Documentation shall be maintained for three years after the recycling operation has ceased;

ix. persons operating under this exclusion must meet the requirements of the *Code of Federal Regulations* at 40 CFR 261, subpart M (emergency preparedness and response for management of excluded hazardous secondary materials), July 1, 2015, which are hereby incorporated by reference;

y. hazardous secondary material that is generated and then transferred to a verified reclamation facility for the purpose of reclamation is not a solid waste, provided that:

i. the material is not speculatively accumulated, as defined in LAC 33:V.109, *accumulated speculatively*;

ii. the material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer and, while in transport, is not stored for more than 10 days at a transfer facility, as defined in LAC 33:V.109, *transfer facility*, and is packaged according to applicable United States Department of Transportation regulations at 49 CFR parts 173, 178, and 179 while in transport;

iii. the material is not otherwise subject to material-specific management conditions under LAC 33:V.105.D.1 when reclaimed (except as provided for in LAC 33:V.105.R.6.e), and it is not a spent lead-acid battery;

iv. the reclamation of the material is legitimate, as specified under LAC 33:V.105.R;

v. the hazardous secondary material generator satisfies all of the following conditions:

(a). the material must be *contained* as defined in LAC 33:V.109, *contained*. A hazardous secondary material released to the environment will be considered discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit with leaks or other continuing releases is discarded and a solid waste;

(b). the hazardous secondary material generator must arrange for transport of hazardous secondary materials to a verified reclamation facility (or facilities) in the United States of America. A verified reclamation facility is a facility that has been granted a variance under LAC 33:V.105.O.2.d or a reclamation facility where the management of the hazardous secondary materials is addressed under a RCRA part B permit or interim status standards. If the hazardous

secondary material will be passing through an intermediate facility, the intermediate facility must have been granted a variance under LAC 33:V.105.O.2.d or the management of the hazardous secondary materials at that facility must be addressed under a RCRA part B permit or interim status standards, and the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator;

(c). the hazardous secondary material generator must maintain at the generating facility for no less than three years records of all off-site shipments of hazardous secondary materials. For each shipment, these records must, at a minimum, contain the following information:

(i). name of the transporter and date of the shipment;

(ii). name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

(iii). the type and quantity of hazardous secondary material in the shipment;

(d). the hazardous secondary material generator must maintain at the generating facility for no less than three years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of hazardous secondary materials. Confirmations of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of U.S. Department of Transportation shipping papers, or electronic confirmations of receipt);

(e). the hazardous secondary material generator must comply with the emergency preparedness and response conditions in 40 CFR 261, subpart M (emergency preparedness and response for management of excluded hazardous secondary materials), July 15, 2015; these requirements are hereby incorporated by reference for this exclusion;

vi. reclaimers of hazardous secondary material excluded from regulation under this exclusion and *intermediate facilities*, as defined in LAC 33:V.109, shall satisfy all of the following conditions:

(a). the reclaimer and intermediate facility shall maintain at its facility for no less than three years records of all shipments of hazardous secondary material that were received at the facility and, if applicable, for all shipments of hazardous secondary materials that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records shall at a minimum contain the following information:

(i). name of the transporter and date of the shipment;

(ii). name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility which the hazardous secondary materials were received from;

(iii). the type and quantity of hazardous secondary material in the shipment; and

(iv). for hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address of the (subsequent) reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

(b). the intermediate facility shall send the hazardous secondary material to the reclaimer(s) designated by the hazardous secondary materials generator;

(c). the reclaimer and intermediate facility shall send to the hazardous secondary material generator confirmations of receipt for all off-site shipments of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt);

(d). the reclaimer and intermediate facility shall manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and shall be contained. An "analogous raw material" is a raw material for which a hazardous secondary material is a substitute and serves the same function and has similar physical and chemical properties as the hazardous secondary material;

(e). any residuals that are generated from reclamation processes will be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to LAC 33:V.4903, or if they themselves are specifically listed in LAC 33:V.4901, such residuals are hazardous wastes and must be managed in accordance with the applicable requirements of this Subpart when disposed or intended for disposal;

(f). the reclaimer and intermediate facility shall provide financial assurance as required under subpart H of 40 CFR part 261, July 2015, which is hereby incorporated by reference;

(g). the reclaimer and intermediate facility have been granted a variance under LAC 33:V.105.O and/or LAC 33:V.105.K, as applicable, or have a RCRA part B permit or interim status standards that address the management of the hazardous secondary materials; and

vii. all persons claiming the exclusion under LAC 33:V.105.D.1.y shall provide notification as required under LAC 33:V.105.Q;

z. hazardous secondary materials that are generated and then transferred to another person for the purpose of remanufacturing are not solid waste, provided there is compliance with the standards and requirements for this conditional exclusion, which are published in the *Code of Federal Regulations* at 40 CFR 261.4(a)(27)-261.4(a)(27)(vi)(F). Additional requirements, as applicable to this exclusion, are located in 40 CFR 261, subpart I (use and management of containers), 40 CFR 261, subpart J (tank systems), 40 CFR 261, subpart AA (air emission standards for process vents), 40 CFR 261, subpart BB (air emission standards for equipment leaks), and 40 CFR 261, subpart CC

(air emission standards for tanks and containers), July 1, 2015, and are hereby incorporated by reference for the purposes of this exclusion.

D.2. - J.2. ...

K. Variances from Classification as a Solid Waste, Non-Waste Determinations and/or Variance to be Classified as a Boiler

1. Variance to be Classified as a Boiler. In accordance with the standards and criteria in LAC 33:V.109, *boiler* and the procedures in Paragraph K.2 of this Section, the administrative authority may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of *boiler* contained in LAC 33:V.109 after considering the following criteria:

a. the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

b. the extent to which the combustion chamber and energy recovery equipment are of integral design; and

c. the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

d. the extent to which exported energy is utilized; and

e. the extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

f. other factors, as appropriate.

2. Procedures for Variances from Classification as a Solid Waste, or Variances to be Classified as a Boiler, or for Non-waste Determinations. The administrative authority will use the following procedures in evaluating applications for variances from classification as a solid waste, applications to classify particular enclosed controlled flame combustion devices as boilers, or applications for non-waste determinations:

a. the applicant must apply to the administrative authority for the variance or non-waste determination. The application must address the relevant criteria contained in this Subsection or LAC 33:V.105.O as applicable;

b. the administrative authority will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and/or radio broadcast in the locality where the recycler is located. The administrative authority will accept comment on the tentative decision for 30 days and may also hold a public hearing upon request or at his discretion. The administrative authority will issue a final decision after receipt of comments and after a hearing (if any);

c. in the event of a change in circumstances that affect how a hazardous secondary material meets the relevant criteria contained in LAC 33:V.105.K or LAC 33:V.105.O upon which a variance or non-waste determination has been based, the applicant shall send a description of the change in circumstances to the administrative authority. The administrative authority may issue a determination that the hazardous secondary material continues to meet the relevant criteria of the variance or non-waste determination or may require the facility to re-apply for the variance or non-waste determination;

d. variances and non-waste determinations issued after [date of promulgation] shall be effective for a fixed term not to exceed 10 years. If a facility re-applies for a variance or non-waste determination within 180 days prior to the end of the term, the facility may continue to operate under an expired variance or non-waste determination until receiving a decision on their re-application from the administrative authority; and

e. facilities receiving a variance or non-waste determination issued after [DATE OF PROMULGATION] must provide notification as required by LAC 33:V.105.Q. Facilities that have already been granted a variance or non-waste determination prior to [DATE OF PROMULGATION] by the administrative authority under LAC 33:V.105.K or LAC 33:V.105.O shall continue to operate under the previously granted variance or determination, unless there is a change in the facility's process or materials.

3. Standards and criteria for non-waste determinations are listed below.

a. An applicant may apply to the administrative authority for a formal determination that a hazardous secondary material is not discarded and therefore not a solid waste. The determinations will be based on the criteria contained in Subparagraphs b or c of this Paragraph, as applicable. If an application is denied, the hazardous secondary material might still be eligible for a solid waste variance or exclusion (e.g., one of the solid waste variances under LAC 33:V.105.O.2.c).

b. The administrative authority may grant a non-waste determination for hazardous secondary material which is reclaimed in a continuous industrial process if the applicant demonstrates that the hazardous secondary material is a part of the production process and is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled as specified in LAC 33:V.105.R and on the following criteria:

i. the extent that the management of the hazardous secondary material is part of the continuous primary production process and is not waste treatment;

ii. whether the capacity of the production process would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

iii. whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

iv. other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under LAC 33:V.109, *solid waste* and/or LAC 33:V.105.D.1.

c. The administrative authority may grant a non-waste determination for hazardous secondary material which is indistinguishable in all relevant aspects from a product or intermediate if the applicant demonstrates that the hazardous secondary material is comparable to a product or intermediate and is not discarded. The determination will be

based on whether the hazardous secondary material is legitimately recycled as specified in LAC 33:V.105.R and on the following criteria:

i. whether market participants treat the hazardous secondary material as a product or intermediate rather than a waste (e.g., based on the current positive value of the hazardous secondary material, stability of demand, or any contractual arrangements);

ii. whether the chemical and physical identity of the hazardous secondary material is comparable to commercial products or intermediates;

iii. whether the capacity of the market would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (e.g., based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

iv. whether the hazardous constituents in the hazardous secondary material are reclaimed rather than released to the air, water or land at significantly higher levels from either a statistical or from a health and environmental risk perspective than would otherwise be released by the production process; and

v. other relevant factors that demonstrate the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under LAC 33:V.109, *solid waste* and/or LAC 33:V.105.D.1.

L. - N.5. ...

O. Variances from Classification as a Solid Waste

1. In accordance with the standards and criteria in Paragraph O.2 and the procedures in LAC 33:V.105.K.2 of this Section, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid waste(s):

a. ...

b. materials that are reclaimed and then reused within the original production process in which they were generated;

c. ...

d. hazardous secondary materials that are reclaimed in a continuous industrial process;

e. hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate; and

f. hazardous secondary materials that are transferred for reclamation under LAC 33:V.105.D.1.y and are managed at a verified reclamation facility or intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim status standards.

2. Standards and Criteria for Variances from Classification as a Solid Waste

a. - b.vii. ...

c. The administrative authority may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that have been partially reclaimed, but must be reclaimed further before recovery is completed, if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the variance is sought is commodity-like will be based on whether the hazardous

secondary material is legitimately recycled as specified in LAC 33:V.105.R and on whether all of the following decision criteria are satisfied:

i. whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the hazardous waste;

ii. whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;

iii. whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;

iv. whether there is a market for the partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading); and

v. whether the partially-reclaimed material is handled to minimize loss.

d. The administrative authority may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that are transferred for reclamation under LAC 33:V.105.D.1.y and are managed at a verified reclamation facility or intermediate facility where the management of the hazardous secondary materials is not addressed under a RCRA part B permit or interim status standards. The administrative authority's decision will be based on the following criteria:

i. the reclamation facility or intermediate facility shall demonstrate that the reclamation process for the hazardous secondary materials is legitimate pursuant to LAC 33:V.105.R;

ii. the reclamation facility or intermediate facility shall satisfy the financial assurance as required under subpart H of 40 CFR part 261, July 2015, which is hereby incorporated by reference;

iii. the reclamation facility or intermediate facility shall not be subject to a formal enforcement action in the previous three years and not be classified as a significant non-complier under RCRA subtitle C, or must provide credible evidence that the facility will manage the hazardous secondary materials properly. Credible evidence may include a demonstration that the facility has taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials;

iv. the intermediate or reclamation facility shall have the equipment and trained personnel needed to safely manage the hazardous secondary material and shall meet emergency preparedness and response requirements under 40 CFR part 261, subpart M, July 2015, which is hereby incorporated by reference;

v. if residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility shall have the permits required (if any) to manage the residuals, have a contract with an appropriately permitted facility to dispose of the residuals or present credible evidence that the residuals will be managed in a manner that is protective of human health and the environment; and

vi. the intermediate or reclamation facility must address the potential for risk to proximate populations from unpermitted releases of the hazardous secondary material to the environment (i.e., releases that are not covered by a permit, such as a permit to discharge to water or air), which may include, but are not limited to, potential releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures), and must include consideration of potential cumulative risks from other nearby potential stressors.

P. - P.2. ...

Q. Notification Requirements for Hazardous Secondary Materials

1. Facilities managing hazardous secondary materials under variances or non-waste determinations granted under LAC 33:V.105.O or LAC 33:V.105.K (or the exclusions of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z), issued after [DATE OF PROMULGATION] must send a notification prior to operating under the regulatory provision and by March 1 of each even-numbered year thereafter to the administrative authority using hazardous waste activity Form HW-1 that includes the following information:

a. the name, address, and EPA ID number (if applicable) of the facility;

b. the name and telephone number of a contact person;

c. the NAICS code of the facility;

d. the regulation under which the hazardous secondary materials will be managed;

e. when the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;

f. a list of hazardous secondary materials that will be managed according to the regulation (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);

g. for each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;

h. the quantity of each hazardous secondary material to be managed annually; and

i. the certification (included in hazardous waste activity Form HW-1) signed and dated by an authorized representative of the facility.

2. If a facility managing hazardous secondary materials has submitted a notification, but then subsequently stops managing hazardous secondary materials in accordance with the regulation(s) listed above, the facility must notify the administrative authority within 30 days using hazardous waste activity Form HW-1. For purposes of this Section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages and/or reclaims hazardous secondary materials under the regulation(s) above and does not expect to manage any amount of hazardous secondary materials for at least one year.

R. Legitimate Recycling of Hazardous Secondary Materials

1. Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous

waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of this Subsection.

2. Factor 1 requires that legitimate recycling shall involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it:

- a. contributes valuable ingredients to a product or intermediate; or
- b. replaces a catalyst or carrier in the recycling process; or
- c. is the source of a valuable constituent recovered in the recycling process; or
- d. is recovered or regenerated by the recycling process; or
- e. is used as an effective substitute for a commercial product.

3. Factor 2 requires that the recycling process shall produce a valuable product or intermediate. The product or intermediate is valuable if it is:

- a. sold to a third party; or
- b. used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.

4. Factor 3 requires that the generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material shall be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

5. Factor 4 requires that the product of the recycling process must be comparable to a legitimate product or intermediate:

a. where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if:

i. the product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals, common acids, common chemicals, or refined petroleum products); or

ii. the hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling); or

b. where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if:

i. the product of the recycling process does not exhibit a hazardous characteristic as defined in LAC 33:V.4903 that analogous products do not exhibit; and

ii. the concentrations of any hazardous constituents found in LAC 33:V.3105, Table 1 that are in the product or intermediate are at levels that are comparable to

or lower than those found in analogous products or at levels that meet widely-recognized commodity standards and specifications, in the case where the commodity standards and specifications include levels that specifically address those hazardous constituents; or

c. if the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate per Subparagraphs a or b of this Paragraph, the recycling still may be shown to be legitimate, if it meets the following specified requirements.

i. The person performing the recycling shall conduct the necessary assessment and prepare documentation showing why the recycling is, in fact, still legitimate.

ii. The recycling can be shown to be legitimate based on: lack of exposure from toxics in the product, or lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the product made using recycled material does not contain levels of hazardous constituents that pose a significant human health or environmental risk; and the documentation must include a certification statement that the recycling is legitimate and must be maintained on-site for three years after the recycling operation has ceased.

iii. The person performing the recycling must notify the administrative authority of this activity using hazardous waste activity Form HW-1.

d. The product of the recycling process is comparable to a legitimate product or intermediate if the requirements of LAC 33:V.105.R.5.a, b, or c of this Section are met. Once the requirements of one of these Subparagraphs are met, there is no need to determine whether the requirements of any other of these Subparagraphs are also met.

6. Pre-2008 exclusions and their relationship to the legitimacy factors are described in this Paragraph.

a. All four legitimacy factors of LAC 33:V.105.R apply to the pre-2008 exclusions.

b. Determination of legitimacy is a self-implementing process; documentation is not required for the pre-2008 exclusions, except when the recycling of the hazardous secondary material must be evaluated under LAC 33:V.105.R.5.c.

c. Pre-2008 exclusions are not subject to the notification requirements of LAC 33:V.105.Q unless the hazardous secondary material is unable to meet the technical requirements of LAC 33:V.105.R.5.a or b. Solvent wipes managed under the exclusion at LAC 33:V.105.D.1.w are not subject to notification unless the requirements of the exclusion are not met.

d. The option for a recycling facility to be verified under the exclusion of LAC 33:V.105.D.1.y applies to the recycling of those hazardous secondary materials that would otherwise be regulated as hazardous waste and does not apply to materials already excluded under one or more of the pre-2008 exclusions (except as provided in LAC 33:V.105.R.6.e).

e. If a hazardous secondary material is subject to material-specific or facility-specific management conditions in LAC 33:V.105.D.1 when reclaimed, such a material is not eligible for exclusion under LAC 33:V.105.D.1.x or y

(“under control of generator” or “verified recycler” exclusions). The exclusions in LAC 33:V.105.D.1 that are subject to material-specific management conditions when reclaimed and are thus not eligible for exclusion under LAC 33:V.105.D.1.x or y are the following:

- i. spent wood preserving solutions (LAC 33:V.105.D.1.i) if recycled on site; shredded circuit boards (LAC 33:V.105.D.1.n);
- ii. mineral processing spent materials (LAC 33:V.105.D.1.p);
- iii. spent caustic solutions from petroleum refining liquid treating processes (LAC 33:V.105.D.1.s);
- iv. cathode ray tubes (LAC 33:V.105.D.1.v);
- v. oil-bearing hazardous secondary materials that are generated at a petroleum refinery and recovered oil, (LAC 33:V.105.D.1.l) if reclaimed at a refinery and petrochemical recovered oil from an associated organic chemical manufacturing facility (LAC 33:V.105.D.1.r); and
- vi. oil-bearing hazardous secondary materials that are generated at a petroleum refinery and recovered oil (LAC 33:V.105.D.1.l) that are reclaimed at a facility other than a refinery are eligible for exclusion under LAC 33:V.105.D.1.x or y.

7. General information pertaining to solid waste exclusions, materials contained in units, and pre-existing variances and non-waste determinations are described in this Paragraph.

a. The “contained” standard defined in LAC 33:V.109 does not require a specific type of management unit like a container (i.e., all materials are not required to be stored in containers). This is a performance-based standard. The specific technical requirements depend on the type of material that is being managed.

b. Materials subject to the pre-2008 exclusions do not have to be *contained*, as defined in LAC 33:V.109. However, hazardous secondary materials that have no analogous raw material, even if subject to one or more of the pre-2008 exclusions, shall be contained.

c. If there has been an accidental release from a unit used to manage secondary hazardous materials, it does not create a presumption that the material remaining in the unit is not *contained* as defined in LAC 33:V.109.

d. The new requirements for variances and waste determinations do not supersede any of the pre-2008 solid waste exclusions, or other prior solid waste determinations or variances, including determinations made in letters of interpretation and inspection reports. If a hazardous secondary material has been determined not to be a solid waste for whatever reason, such a determination remains in effect, unless there is a change in process or materials. Facilities that have already been granted a variance or non-waste determination by the department prior to [DATE OF PROMULGATION] shall continue to operate under the conditions of the previously granted variance or determination.

8. Closed-loop recycling, analytical testing requirements, and legitimate recycling under LAC 33:V.105.R.5 are described in this Paragraph.

a. Analytical testing is not generally required to make legitimacy determinations under LAC 33:V.105.R.5. A company may use its knowledge of the material it uses and of the recycling process to make its legitimacy

determinations. As with any solid and hazardous waste determination, a person may use knowledge of the materials used, the hazardous secondary material, product, or intermediate he recycles and of the recycling process to make legitimate recycling determinations.

b. Recycling meets legitimacy factor 4 of LAC 33:V.105.R.5 with no analytical testing and/or with no further demonstration of meeting this legitimacy factor required under any one of the following circumstances:

i. the hazardous secondary materials are returned to the original process or processes from which they were generated, such as in concentrating metals in minerals processing;

ii. the recycled product meets widely-recognized commodity specifications and there is no analogous product made from raw materials (such as scrap metal being reclaimed into metal commodities). For specialty products such as specialty batch chemicals or specialty metal alloys, customer specifications would be sufficient;

iii. the recycled product has an analogous product made from virgin materials, but meets widely-recognized commodity specifications which address the hazardous constituents (such as spent solvents being reclaimed into solvent products); or

iv. the person recycling has the necessary knowledge, such as knowledge about the incoming hazardous secondary material and the recycling process, to be able to demonstrate that the product of recycling does not exhibit a hazardous characteristic and contains hazardous constituents at levels comparable to or lower than those in products made from virgin materials.

c. If the hazardous secondary materials are being returned to the original production process, then there is no analogous product and legitimacy factor 4 of LAC 33:V.105.R.5 is met. The person conducting the recycling does not need to do any further analysis for the purpose of determining compliance with this factor. For example, recycling that takes place under the closed loop recycling exclusion is an example of manufacturing that consistently includes the hazardous secondary material being returned to the original process from which it was generated and that would therefore automatically meet legitimacy factor 4 of LAC 33:V.105.R.5. Materials re-used within an ongoing industrial process are neither disposed of nor abandoned. Another example includes primary metals production where hazardous secondary materials are returned to the production process to ensure that all the valuable metals are extracted from the ore. This would be another process that would meet legitimacy factor 4 of LAC 33:V.105.R.5 with no further analysis needed.

d. If a chemical product made from a hazardous secondary material has an analogous product made from raw materials and does not exhibit a hazardous characteristic that the analogous product does not exhibit, and the concentration of hazardous constituents are comparable to those in analogous products, the fourth legitimacy factor of LAC 33:V.105.R.5 is met. For example, weak acid by-products that are concentrated into stronger acids and undergo extensive QA/QC processes to assure the quality of the concentrated acids.

e. For the purposes of LAC 33:V.105.R.5 widely-recognized commodity standards and specifications include

those standards and specifications that are used throughout an industry, and that are widely available to anyone producing the product e.g., in safety data sheets (SDSs), on-line vendor specifications, sales literature, customer specifications, ASTM standards, and others.

f. Valid comparisons for the purpose of LAC 33:V.105.R.5 include, but are not limited to:

i. the hazardous secondary material that is being recycled directly (i.e., without reclamation) as compared to the virgin raw material or ingredient that the hazardous secondary material is replacing;

ii. the hazardous secondary material after reclamation that is being recycled as compared to the virgin raw material or ingredient that the reclaimed hazardous secondary material is replacing;

iii. the product/intermediate that results from recycling the hazardous secondary material as compared to the product/intermediate that results from using the virgin raw material or ingredient that the hazardous secondary material is replacing; or

iv. the product/intermediate that results from recycling the hazardous secondary material as compared to a substitute product/intermediate that is made without the hazardous secondary material by a different company or by the same company at a different site or through a different process.

g. Closed-loop recycling is an example of a manufacturing process where the hazardous secondary material is returned to the original process from which it was generated. The reference in LAC 33:V.105.R.5 to hazardous secondary materials returned to the original process is not limited to closed-loop recycling, nor must the hazardous secondary material be returned to the same unit in which it was generated. For the purposes of LAC 33:V.105.R.5, a hazardous secondary material is returned to the original process if it is returned to the same production process or processes where it was generated; if it is returned to other production processes from which it was derived; if it is returned via closed-loop or open-loop; if it is returned from on-site or off-site; if it is returned from second, third, or later generation use of the hazardous secondary material, product, or intermediate; or if it is returned as part of the long-established recycling of such hazardous secondary material in connection with the manufacturing or use, both on-site and off-site, of a product or intermediate made with the hazardous secondary material. Production process or processes include those activities that tie directly into the manufacturing operation and those activities that are the primary operation at the establishment.

h. Recycling meets legitimacy factor 4 of LAC 33:V.105.R.5 if the hazardous secondary material is returned to the original production process to produce a product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR

17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 40:1336 (July 2014), amended by the Office of the Secretary, Legal Division, LR 43:

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Accumulated Speculatively—a material is *accumulated speculatively* if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, (such as where material is stored in batch tanks, continuous-flow tanks, waste piles, or containment buildings), the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under LAC 33:V.105.D.3 are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however. For example, the following materials are either excluded from the definition of solid waste, or are solid wastes, and therefore are not included in any speculative accumulation calculations:

1. scrap metal that is excluded under LAC 33:V.105.D.1.m;
2. commercial chemical products that are not used in a manner constituting disposal (unless they are applied to the land and that is their ordinary use), and are not burned for energy recovery (unless they are themselves fuels) (LAC 33:V.109, *solid waste*, 3);
3. industrial ethyl alcohol that is reclaimed (LAC 33:V.4105.A.1.a);
4. fuels produced from the refining of oil-bearing hazardous waste (LAC 33:V.4105.A.1.c);
5. wastes from growing and harvesting of agricultural crops (LAC 33:V.105.D.2.b.i);
6. wastes from raising of animals, including animal manures (LAC 33:V.105.D.2.b.ii);
7. mining overburden returned to the mine site (LAC 33:V.105.D.2.c);
8. used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment (LAC 33:V.105.D.2.m);
9. used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products (LAC 33:V.105.D.2.o);
10. materials excluded under closed loop recycling with reclamation (LAC 33:V.105.D.1.h) or closed loop recycling without reclamation (LAC 33:V.109, *solid waste*, 5.a.iii);
11. solvent wipes excluded under LAC 33:V.105.D.1.w.

* * *

Analogous Product—a product made of raw materials or made by competing companies with similar specifications for which a hazardous secondary material substitutes.

Analogous Raw Material—a material for which a hazardous secondary material substitutes and which serves the same function and has similar physical and chemical properties as the hazardous secondary material.

* * *

Contained—held in a unit (including *land-based unit* as defined LAC 33:V.109) that meets the following criteria:

1. the unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;
2. the unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit;
3. the unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions;
4. hazardous secondary materials in units that meet the applicable requirements of LAC 33:V.Subpart 1 are presumptively contained.

* * *

Facility—

1. all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments or a combination of them); or

2. for the purpose of implementing corrective action under LAC 33:V.3322, all the contiguous property under the control of the owner or operator seeking a permit under subtitle C of RCRA. This definition also applies to facilities implementing corrective actions under RCRA section 3008(h);

3. notwithstanding Paragraph 2 of this definition, a remediation waste management site is not a facility that is subject to LAC 33:V.3322, but is subject to corrective action requirements if the site is located within such a facility.

* * *

Hazardous Secondary Material—a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under LAC 33:V.Subpart 1.

Hazardous Secondary Material Generator—any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this LAC 33:V.Subpart 1, “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. Under LAC 33:V.105.D.1.x (“hazardous secondary materials reclaimed under the control of the generator”), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

* * *

Intermediate—(as used in LAC 33:V.105.R) a substance formed as a stage in the manufacture of a desired end-product.

Intermediate Facility—any facility that stores hazardous secondary materials for more than 10 days, other than a hazardous secondary material generator or reclaimer of such material.

* * *

Land-Based Unit—an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

* * *

Pre-2008 Exclusions—the exclusions from the definition of solid waste and hazardous waste exemptions in effect prior to EPA’s 2008 promulgation of revisions to the definition of solid waste to exclude certain hazardous secondary materials from hazardous waste regulation in 73 *Federal Register* 64668 et seq., October 30, 2008, effective December 29, 2008.

* * *

Reclaimed Material—a material is reclaimed if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of LAC 33:V.105.D.1.x and LAC 33:V.105.D.1.y, smelting,

melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in LAC 33:V.3001.D.1-3 of this Subpart, and if the residuals meet the requirements specified in LAC 33:V.3025 (Regulation of Residues).

Remanufacturing—processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

Sham Recycling—a hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in LAC 33:V.105.R.

Solid Waste—

1.a. any discarded material that is not excluded by LAC 33:V.105.D.1 or that is not excluded by a variance or non-waste determination granted under LAC 33:V.105.K or O;

1.b. - 2.c. ...

d. sham recycled as defined under LAC 33:V.109, *sham recycling*

3. - 3.b.ii....

c. *reclaimed*—materials noted with an “*” in column 3 of Table 1 in this Chapter are solid wastes when reclaimed, except as provided under LAC 33:V.105.D.1.p, or unless they meet the requirements of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or 261.4(a)(27), as incorporated by reference at LAC 33:V.105.D.1.z. Materials noted with a “---” in column 3 of Table 1 are not solid wastes when reclaimed;

3.d. - 6....

Table 1				
	Use Constituting Disposal	Energy Recovery/ Fuel	Reclamation except as Provided in LAC 33:V. 105.D.1.p for Mineral Processing Secondary Materials, LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.	Speculative Accumulation
	(1)	(2)	(3)	(4)
By-products exhibiting a characteristic of hazardous waste	*	*	*
Commercial chemical products (listed in LAC 33:V.4901.E and F)	*	*
Scrap metal that is not excluded under LAC 33:V.105.D.1.m	*	*	*	*

Toll Manufacturer—(for purposes of LAC 33:V.105.D.1.x) a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

Tolling Contractor—(for purposes of LAC 33:V.105.D.1.x) a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer.

Transfer Facility—any transportation-related facility, including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006),

Table 1				
	Use Constituting Disposal	Energy Recovery/ Fuel	Reclamation except as Provided in LAC 33:V. 105.D.1.p for Mineral Processing Secondary Materials, LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.	Speculative Accumulation
	(1)	(2)	(3)	(4)
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	*
By-products (listed in LAC 33:V.4901)	*	*	*	*

LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:774, 781 (March 2012), repromulgated LR 38:1009 (April 2012), amended by the Office of the Secretary, Legal Division, LR 40:1338 (July 2014), LR 41:2600 (December 2015), LR 42:565 (April 2016), LR 43:

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§322. Classification of Permit Modifications

A. The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class
A.1. - A.7. ...	
8. Changes to remove permit conditions applicable to a unit excluded under the provisions of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.	1 ¹
9. Changes in the expiration date of a permit issued to a facility at which all units are excluded under the provisions of LAC 33:V.105.D.1.x, LAC 33:V.105.D.1.y, or LAC 33:V.105.D.1.z.	1 ¹
B. - O.4. ...	

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996), amended by the Office of the Secretary, LR 24:2245 (December 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:292 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008), LR 34:992 (June 2008), amended by the Office of Secretary, Legal Division, LR 43:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

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 HW118. Such comments must be received no later than May 3, 2017, 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 HW118. 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 April 26, 2017, 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: Secondary Hazardous Materials

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be costs to Louisiana Department of Environmental Quality (DEQ) due to the proposed rule change. However, the costs incurred will be absorbed with current staff and funds from the Environmental Protection Agency's (EPA) Performance Partnership Grant (PPG) awarded to the department.

The costs are due to increased oversight of industries that recycle hazardous secondary materials (HSM), additional paperwork, additional inspections, a new category of registration for users of HSM, and increased notification forms from users of HSM (from facilities that recycle by using HSM).

The Federal Government's Environmental Protection Agency requires adoption of new regulations pertaining to the recycling and reclaiming of hazardous secondary materials (HSM). Recycling of HSM is a common practice, so most petrochemical, refineries, and other manufacturers categorized as NAICS Codes 32 and 33 will be affected. This includes wood product manufacturing, paper manufacturing, printing and related support activities, petroleum and coal products manufacturing, chemical manufacturing, plastics and rubber products manufacturing, nonmetallic mineral product manufacturing, primary metal manufacturing, fabricated metal product manufacturing, machinery manufacturing, computer and electronic product manufacturing, electrical equipment, appliance, and component manufacturing, transportation equipment manufacturing, furniture and related product manufacturing, and miscellaneous manufacturing.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects on revenue collections from the implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The costs to those directly affected (petrochemical manufacturing industries and small manufacturing businesses) will include additional paperwork for increased notification, additional costs of increased recordkeeping for tracking the use of HSM, and increased cost for in-depth legitimacy determinations. The EPA estimates a maximum of 1% of annual sales approximately \$2.4 million for affected industries nationwide, which includes labor, operations, and maintenance costs. However, EPA also estimates that after the first three years of implementation, industries will begin to benefit from the regulatory change by approximately \$1-2 million per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition should remain neutral as all applicable industries must comply with the same requirements. It is possible that increase employment in the private and public sectors may result from this rule, due to an increase in labor and regulatory expertise for complying with the new rule.

Herman Robinson
General Counsel
1703#029

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Pardons

Clemency Consideration Eligibility and Application Filing (LAC 22:V.205 and 209)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its Rules in LAC 22:V.205 and 209. These proposed Rule changes revise application filing procedures. Section 205 provides the application form is available on the board's webpage and further sets out additional documentation that may be submitted with the application. Technical revisions to §209 provide that additional documentation relevant to the application may be submitted after the applicant has placed the required advertisement in the local journal.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 2. Clemency

§205. Application Filing Procedures

A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons which is made available on the board's webpage at www.doc.la.gov.

2. It is the applicant's responsibility to submit a complete application. The application shall not be processed until it is complete. If any required information does not apply, the response should be "NA".

3. Each answer must be answered fully, truthfully, and accurately. The submission of any false information is grounds for immediate denial of the application.

4. Additional documentation that is relevant to the application may be also be submitted, including letters of support on behalf of the applicant, military DD-214 if applicable, other attachments that the applicant would like to include that are relevant to the application.

5. The application must be filled out completely, signed, dated, and notarized where required.

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and have the signature of a classification officer verifying the conduct of the applicant and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants who have completed parole supervision must attach a copy of their parole certificate, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

3. Probationers. Applicants who have completed the probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon, a certified judgment and sentence on each conviction for which they are applying for a pardon; a certified statement from the clerk of court that all fines, fees, and court costs (including restitution and probation fees) have been paid in full; a current credit report (current within 90 days of date of application), and proof of residence.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an automatic first offender pardon must attach a copy of the automatic first offender pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below.

1. Applicants Sentenced to Life Imprisonment. Any applicant with a life sentence may reapply five years after the initial denial; and every five years thereafter. Applicant must also meet the criteria stated in §203.C.2.a-d.

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any form of executive clemency by the governor may not reapply for further executive clemency for at least four years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor

that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. If the applicant is notified that no action was taken by the governor, the applicant may request reconsideration of the board's favorable recommendation. Applicant must submit a re-application within one year from the date on the board's notification to the applicant of no action taken by the governor.

i. Upon receipt of the re-application in accordance with this section, the board shall set the matter for an administrative review. At least 30 days prior to the scheduled docket date for administrative review, the board shall give written notice of the date, time, and place to the following:

(a). the district attorney and sheriff of the parish in which the applicant was convicted and, in Orleans Parish, the superintendent of police;

(b). the applicant;

(c). the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

(d). the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board in writing that such notification is not desired;

(e). the Crime Victim Services Bureau of the Department of Public Safety and Corrections; and

(f). any other interested person who has notified the board of pardons, in writing, requesting such notice providing their name and return address.

c. The board shall evaluate the record of the applicant. Action on the re-application may include setting the matter for a clemency hearing, affirming the board's previous favorable recommendation, or denying the re-application.

d. If the applicant does not apply for reconsideration within the one-year period, the application filing procedures in Subsections A-D.3 of this Section shall apply.

E. Notice of Action Taken on Application. After review of application for clemency by the board, applicants shall be notified, in writing, of action taken by the board. Action can include granting a hearing before the board or denial of a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons, LR 42:1087 (July 2016), LR 43:

§209. Hearing Granted

A. After notice to an applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the

date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I (applicant's name), (DOC number), have applied for clemency for my conviction of (crime). If you have any comments, contact the Board of Pardons (225) 342-5421."

B. At this stage of the process, along with the proof of advertisement published in the local journal, the applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 43:

Family Impact Statement

Amendment to the rules has no known 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 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 relations to individual or family poverty in relations to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2012 Regular Legislative Session.

Public Comments

Written comments may be addressed to Mona Wagner, Executive Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on April 10, 2017.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Clemency Consideration Eligibility and Application Filing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not expected to result in costs or savings to state or local government units. The proposed rule changes to Section 205 provides that the clemency application form is available on the board's webpage and further sets out additional documentation that may be submitted with the application. Technical revisions to Section 209 provides that additional documentation relevant to the application may be submitted after the applicant has placed the required advertisement in the local journal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1703#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Facility Planning And Control

Capital Improvement Projects
Procedure Manual (LAC 34:III.131)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 39:121, the Division of Administration, Office of Facility Planning and Control hereby gives notice of its intent to amend LAC *Title 34, Government Contracts, Procurement and Property Control*, Part III, Facility Planning and Control, Chapter 1, Capital Improvement Projects, Section 131, Louisiana Building Code for state-owned buildings. These rule changes are the result of a review by Facility Planning and Control of the editions of the codes specified in R.S. 40:1722 and the most recent editions of these codes. This review has led to the determination that new editions of these codes will provide a higher standard than the currently referenced editions. Facility Planning and Control is, therefore, establishing the appropriate editions of these codes as the standards.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Procedure Manual

§131. Louisiana Building Code

A. R.S. 40:1722 establishes the Louisiana building code and directs that the following codes be established as the standards as minimum standards for this code. These codes shall be established as constituting the code in the editions indicated:

1. the *Life Safety Code*, standard 101, 2015 edition as published by the National Fire Protection Association;
2. the *International Plumbing Code*, 2015 edition as published by the International Code Council and amended by R.S. 40:1730.28.1;
3. the *International Building Code*, 2015 edition as published by the International Code Council, not including chapter 1, administration, chapter 11, accessibility, and chapter 27, electrical;
4. the *International Mechanical Code*, 2015 edition as published by the International Code Council;
5. the *National Electric Code* (NFPA no. 70), 2014 edition as published by the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Facility Planning and Control, LR 8:473 (September 1982), amended by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 11:849 (September 1985), amended by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 33:2649 (December 2007), LR 37:3260 (November 2011), LR 39:86 (January 2013), LR 39:2493 (September 2013), effective on January 1, 2014, LR 43:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family? This Rule will have no effect on the stability of the family.
2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children? This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The Effect of this Rule on the Functioning of the Family? This Rule will have no effect on the functioning of the family.
4. The Effect of this Rule on Family Earnings and Family Budget? This Rule will have no effect on family earnings and family budget.
5. The Effect of this Rule on the Behavior and Personal Responsibility of Children? This Rule will have no effect on the behavior and personal responsibility of children.
6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule? This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973

Small Business Analysis

The Office of Facility Planning and Control has considered all methods of reducing the impact of the proposed Rule on small business as noted in R.S. 49:965.6. The intent of the proposed Rule is to upgrade the current edition of the *Life Safety Code*, *International Building Code*, the *International Plumbing Code*, the *International Mechanical Code* and the *National Electric Code* established as standards for the Louisiana building code. These codes are the basis of safety and mobility of the general public in the design of state-owned buildings. It would not be feasible to consider a partial or modified compliance of these building codes specifically for small businesses. Any alternative code standards or exemption of small businesses from these revised building codes would jeopardize the well being of the general public.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR 107) of the 2014 Regular Session of the Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on providers. However, the particular proposed Rule does not impact or affect the staffing level requirements required to provide the same level of service.

Public Comments

Interested persons may submit comments to Mark Bell, Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be accepted through April 10, 2017.

Mark A. Moses
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Capital Improvement Projects
Procedure Manual**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rule will likely result in a net increase per building construction costs for state-owned buildings. The proposed administrative rule will not result in any implementation costs or savings to local governmental units. The proposed administrative rule updates the Louisiana Building Code for state-owned buildings as per RS 40:1722 by updating the current editions of the Life Safety Code, the International Building Code, the International Plumbing Code, the International Mechanical Code and the National Electric Code established as standards for the Louisiana Building Code. Any increases will be small relative to the total construction cost and can be covered by project contingency until capital funding can be adjusted if necessary. The size of the project and the design solutions determined by the architect or engineer will determine cost impacts and may be expected to range from \$1,000 to \$100,000 per project.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on governmental revenues as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent that the net cost per construction project for state-owned buildings may increase due to updates to the Louisiana Building Code to reflect current construction and safety codes, designers and contractors may realize a marginal but unknown economic benefit, which will vary depending on the size and complexity of individual projects. The LFO assumes any training necessary for contractors to comply with updated construction and safety codes are a normal part of operating within this industry and do not create extraordinary economic costs. The Office of Facility Planning and Control does not anticipate a material impact to directly affected persons or nongovernmental groups as a result of the proposed rule change. Any project cost increase as a result of the proposed rule will likely be passed down to the state through the public bid process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct material effect on competition and employment as a result of the proposed administrative rules. There will likely be the same number of jobs though some tasks may be slightly different as a result of the proposed administrative rule.

Mark A. Moses
Director
1703#019

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Real Estate Commission**

Disbursement of Escrow Deposits (LAC 46:LXVII.2901)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has initiated procedures to amend LAC 46:LXVII.Chapter 29. The proposed Rule change provides real estate brokers who have been unable to reach parties of a failed sale to return the escrow deposit monies, the additional option of transferring the funds to the treasurer as unclaimed funds in accordance with the Uniform Unclaimed Property Act of 1997.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 29. Disbursement of Escrow Deposits

§2901. Escrow Disputes

A. - A.4. ...

5. disburse the funds in accordance with the Uniform Unclaimed Property Act of 1997 as set forth in R.S. 9:151 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:44 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 32:1454 (August 2006), LR 34:2422 (November 2007), LR 37:3007 (October 2011), LR 42:53 (January 2016), LR 43:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the March 20, 2017 *Louisiana Register*: The proposed Rule has no known impact on family, formation, stability, or autonomy.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

Interested parties may submit written comments on the proposed regulations to Ryan Shaw, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809 or rshaw@lrec.state.la.us, through April 10, 2017 at 4:30 p.m.

Public Hearing

If it becomes a necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held on April 25, 2017 at 9:00 a.m. at the office of the Louisiana Real Estate Appraisers Board, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Disbursement of Escrow Deposits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to the Louisiana Real Estate Commission due to the proposed rule change. The current rule provides guidelines to real estate brokers for the disbursement of unclaimed monies in an escrow account. The proposed rule change provides real estate brokers who have been unable to reach parties of a failed sale to return the escrow deposit monies, the additional option of transferring the funds to the Treasurer as unclaimed funds in accordance with the Uniform Unclaimed Property Act of 1997.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may lead to funds being transferred to the control of the State Treasurer's Office as unclaimed property. At the end of each fiscal year, all monies remaining in the Unclaimed Property Fund will revert to the State General Fund to be used for state operations. In accordance with the Uniform Unclaimed Property Act of 1997, any individual with money in the fund has the ability to claim their money at any point, which will be paid out of the current year's Unclaimed Property fund. An exact estimate of revenue to the state general fund is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs associated with the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Bruce Unangst
Executive Director
1703#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Examiners of Psychologists**

Ethical Code of Conduct of Psychologists
(LAC 46:LXIII.Chapter 13)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend LAC 46:LXIII.1301; and adopt §§1302 through 1311.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Subpart 1. General Provisions

§1301. Preamble

A. Psychologists work to develop a valid and reliable body of scientific knowledge based on research. They may apply that knowledge to human behavior in a variety of contexts. In doing so, they perform many roles, such as researcher, educator, diagnostician, therapist, supervisor, consultant, administration, social interventionists, court mediator, and expert witness. Their goal is to broaden

knowledge of behavior and, where appropriate, to apply it pragmatically to improve the condition of both the individual and society. Psychologists respect the central importance of freedom of inquiry and expression in research, teaching, and publication. Psychologists respect and protect human and civil rights, and do not knowingly participate in or condone unfair discriminatory practices. They also strive to help the public in developing informed judgments and choices concerning human behavior. These rules set standards and guidelines are established for the welfare and protection of the individuals and groups with whom psychologists work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 6:66 (February 1980), amended LR 10:791 (October 1984), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:703 (May 2003), LR 41:2620 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 43:

§1302. Resolving Ethical Issues

A. Misuse of Psychologists' Work. If psychologists learn of misuse or misrepresentation of their work, they take reasonable steps to correct or minimize the misuse or misrepresentation.

B. Conflicts between Ethics and Law, Regulations, or Other Governing Legal Authority. If psychologists' ethical responsibilities conflict with law, regulations or other governing legal authority, psychologists clarify the nature of the conflict, and take reasonable steps to resolve the conflict consistent with this Chapter. Under no circumstances may this standard be used to justify or defend violating human rights.

C. Conflicts between Ethics and Organizational Demands. If the demands of an organization with which psychologists are affiliated or for whom they are working are in conflict with this Chapter, psychologists clarify the nature of the conflict, make known their commitment to this Chapter and take reasonable steps to resolve the conflict consistent with this Chapter. Under no circumstances may this standard be used to justify or defend violating human rights.

D. Informal Resolution of Ethical Violations. When psychologists believe that there may have been an ethical violation by another psychologist, they attempt to resolve the issue by bringing it to the attention of that individual, if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved.

E. Reporting Ethical Violations. If an apparent ethical violation has substantially harmed or is likely to substantially harm a person or organization and is not appropriate for informal resolution under §1302.D, or is not resolved properly in that fashion, psychologists take further action appropriate to the situation. Such action might include referral to state or national committees on professional ethics, to state licensing boards or to the appropriate institutional authorities. This standard does not apply when an intervention would violate confidentiality rights or when psychologists have been retained to review the work of another psychologist whose professional conduct is in question.

F. Improper Complaints. Psychologists do not file or encourage the filing of ethics complaints that are made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

G. Unfair Discrimination against Complainants and Respondents. Psychologists do not deny any person employment, advancement, admissions to academic or other programs, tenure, or promotion, based solely upon their having made or their being the subject of an ethics complaint. This does not preclude taking action based upon the outcome of such proceedings or considering other appropriate information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1303. Competence

A. Boundaries of Competence

1. Psychologists provide services, teach and conduct research with populations and in areas only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study or professional experience.

2. Where scientific or professional knowledge in the discipline of psychology establishes that an understanding of factors associated with age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language or socioeconomic status is essential for effective implementation of their services or research, psychologists have or obtain the training, experience, consultation or supervision necessary to ensure the competence of their services, or they make appropriate referrals, except in emergencies.

3. Psychologists planning to provide services, teach or conduct research involving populations, areas, techniques or technologies new to them undertake relevant education, training, supervised experience, consultation or study.

4. When psychologists are asked to provide services to individuals for whom appropriate mental health services are not available and for which psychologists have not obtained the competence necessary, psychologists with closely related prior training or experience may provide such services in order to ensure that services are not denied if they make a reasonable effort to obtain the competence required by using relevant research, training, consultation or study.

5. In those emerging areas in which generally recognized standards for preparatory training do not yet exist, psychologists nevertheless take reasonable steps to ensure the competence of their work and to protect clients/patients, students, supervisees, research participants, organizational clients and others from harm.

6. When assuming forensic roles, psychologists are or become reasonably familiar with the judicial or administrative rules governing their roles.

B. Providing Services in Emergencies. In emergencies, when psychologists provide services to individuals for whom other mental health services are not available and for which psychologists have not obtained the necessary training, psychologists may provide such services in order to ensure that services are not denied. The services are discontinued as soon as the emergency has ended or appropriate services are available.

C. Maintaining Competence. Psychologists undertake ongoing efforts to develop and maintain their competence.

D. Bases for Scientific and Professional Judgments. Psychologists' work is based upon established scientific and professional knowledge of the discipline.

E. Delegation of Work to Others. Psychologists who delegate work to employees, supervisees or research or teaching assistants or who use the services of others, such as interpreters, take reasonable steps to:

1. avoid delegating such work to persons who have a multiple relationship with those being served that would likely lead to exploitation or loss of objectivity;

2. authorize only those responsibilities that such persons can be expected to perform competently on the basis of their education, training or experience, either independently or with the level of supervision being provided; and

3. see that such persons perform these services competently.

F. Personal Problems and Conflicts

1. Psychologists refrain from initiating an activity when they know or should know that there is a substantial likelihood that their personal problems will prevent them from performing their work-related activities in a competent manner.

2. When psychologists become aware of personal problems that may interfere with their performing work-related duties adequately, they take appropriate measures, such as obtaining professional consultation or assistance and determine whether they should limit, suspend or terminate their work-related duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1304. Human Relations

A. Unfair Discrimination. In their work-related activities, psychologists do not engage in unfair discrimination based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, socioeconomic status or any basis proscribed by law.

B. Sexual Harassment. Psychologists do not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the psychologist's activities or roles as a psychologist and that either:

1. is unwelcome, is offensive or creates a hostile workplace or educational environment, and the psychologist knows or is told this; or

2. is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

C. Other Harassment. Psychologists do not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language or socioeconomic status.

D. Avoiding Harm. Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients and others with

whom they work, and to minimize harm where it is foreseeable and unavoidable.

E. Multiple Relationships

1. A multiple relationship occurs when a psychologist is in a professional role with a person, and

a. at the same time is in another role with the same person;

b. at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship; or

c. promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

2. A psychologist shall not enter into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.

3. Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.

4. If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with this Chapter.

5. When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they:

a. obtain written informed consent from all parties and/or court order; and

b. clarify role expectations; and

c. clarify the extent of confidentiality with regard to current roles, and thereafter as changes occur.

F. Conflict of Interest. Psychologists refrain from taking on a professional role when personal, scientific, professional, legal, financial or other interests or relationships could reasonably be expected to:

1. impair their objectivity, competence or effectiveness in performing their functions as psychologists, or

2. expose the person or organization with whom the professional relationship exists to harm or exploitation.

G. Third-Party Requests for Services. When psychologists agree to provide services to a person or entity at the request of a third party, psychologists attempt to clarify at the outset of the service the nature of the relationship with all individuals or organizations involved. This clarification includes the role of the psychologist (e.g., therapist, consultant, diagnostician, or expert witness), an identification of who is the client, the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality.

H. Exploitative Relationships. Psychologists do not exploit persons over whom they have supervisory, evaluative or other authority such as clients/patients, students, supervisees, research participants and employees.

I. Cooperation with Other Professionals. When indicated and professionally appropriate, psychologists

cooperate with other professionals in order to serve their clients/patients effectively and appropriately.

J. Informed Consent

1. When psychologists conduct research or provide assessment, therapy, counseling or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Chapter.

2. For persons who are legally incapable of giving informed consent, psychologists nevertheless:

a. provide an appropriate explanation;

b. seek the individual's assent;

c. consider such persons' preferences and best interests; and

d. obtain appropriate permission from a legally authorized person, if such substitute consent is permitted or required by law.

3. When consent by a legally authorized person is not permitted or required by law, psychologists take reasonable steps to protect the individual's rights and welfare.

4. When psychological services are court ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court ordered or mandated and any limits of confidentiality, before proceeding.

5. Psychologists appropriately document written or oral consent, permission, and assent.

K. Psychologists Delivering Services to or through Organizations

1. Psychologists delivering services to or through organizations provide information beforehand to clients and when appropriate those directly affected by the services about:

a. the nature and objectives of the services;

b. the intended recipients;

c. which of the individuals are clients;

d. the relationship the psychologist will have with each person and the organization;

e. the probable uses of services provided and information obtained;

f. who will have access to the information; and,

g. limits of confidentiality.

2. As soon as feasible, psychologists provide information about the results and conclusions of such services to appropriate persons. If psychologists will be precluded by law or by organizational roles from providing such information to particular individuals or groups, they so inform those individuals or groups at the outset of the service.

L. Interruption of Psychological Services. Unless otherwise covered by contract, psychologists make reasonable efforts to plan for facilitating services in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability, relocation or retirement or by the client's/patient's relocation or financial limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1305. Privacy and Confidentiality

A. Maintaining Confidentiality. Psychologists have a primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium, recognizing that the extent and limits of confidentiality may be regulated by law or established by institutional rules or professional or scientific relationship.

B. Discussing the Limits of Confidentiality

1. Psychologists discuss with persons (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal representatives) and organizations with whom they establish a scientific or professional relationship:

- a. the relevant limits of confidentiality; and
- b. the foreseeable uses of the information generated through their psychological activities.

2. Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.

3. Psychologists who offer services, products, or information via electronic transmission inform clients/patients of the risks to privacy and limits of confidentiality.

C. Recording

1. Before recording the voices or images of individuals to whom they provide services, psychologists obtain permission from all such persons or their legal representative.

D. Minimizing Intrusions on Privacy

1. Psychologists include in written and oral reports and consultations only information germane to the purpose for which the communication is made.

2. Psychologists discuss confidential information obtained in their work only for appropriate scientific or professional purposes and only with persons who have a legal or legitimate right to such information.

E. Disclosures

1. Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient or another legally authorized person on behalf of the client/patient unless prohibited by law.

2. Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to:

- a. provide needed professional services;
- b. obtain appropriate professional consultations;
- c. protect the client/patient, psychologist, or others from harm; or
- d. obtain payment for services from a client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose.

F. Consultations

1. When consulting with colleagues psychologists do not disclose confidential information that reasonably could lead to the identification of a client/patient, research participant or other person or organization with whom they have a confidential relationship unless they have obtained

the prior consent of the person or organization or the disclosure cannot be avoided.

2. When consulting with colleagues psychologists disclose information only to the extent necessary to achieve the purposes of the consultation.

G. Use of Confidential Information for Didactic or Other Purposes

1. Psychologists do not disclose in their writings, lectures or other public media, confidential, personally identifiable information concerning their clients/patients, students, research participants, organizational clients or other recipients of their services that they obtained during the course of their work, unless they take reasonable steps to disguise the person or organization, obtain written consent from the person or organization, or there is documented legal authorization for doing so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1306. Advertising and Other Public Statements

A. Avoidance of False or Deceptive Statements

1. Public statements include but are not limited to paid or unpaid advertising, product endorsements, grant applications, licensing applications, other credentialing applications, brochures, printed matter, directory listings, personal resumes or curricula vitae or comments for use in media such as print or electronic transmission, statements in legal proceedings, lectures and public oral presentations and published materials.

2. Psychologists do not knowingly make public statements that are false, deceptive or fraudulent concerning their research, practice or other work activities or those of persons or organizations with which they are affiliated.

3. Psychologists do not make false, deceptive or fraudulent statements concerning:

- a. their training, experience or competence;
- b. their academic degrees;
- c. their credentials;
- d. their institutional or association affiliations;
- e. their services;
- f. the scientific or clinical basis for or results or degree of success of, their services;
- g. their fees; or
- h. their publications or research findings.

4. Psychologists claim degrees as credentials for their health services only if those degrees were earned from a regionally accredited educational institution, or were the basis for psychology licensure by the state in which they practice.

B. Statements by Others

1. Psychologists who engage others to create or place public statements that promote their professional practice, products, or activities retain professional responsibility for such statements.

2. Psychologists do not compensate employees of press, radio, television or other communication media in return for publicity in a news item.

3. A paid advertisement relating to psychologists' activities must be identified or clearly recognizable as such.

C. Descriptions of Workshops and Non-Degree-Granting Educational Programs. To the degree to which they exercise

control, psychologists responsible for announcements, catalogs, brochures or advertisements describing workshops, seminars or other non-degree-granting educational programs ensure that they accurately describe the audience for which the program is intended, the educational objectives, the presenters and the fees involved.

D. Media Presentations. When psychologists provide public advice or comment via print, Internet or other electronic transmission, they take precautions to ensure that statements:

1. are based on their professional knowledge, training or experience in accord with appropriate psychological literature and practice;
2. are otherwise consistent with this Chapter; and
3. do not indicate that a professional relationship has been established with the recipient.

E. Testimonials. Psychologists do not solicit testimonials from current therapy clients/patients or other persons who because of their particular circumstances are vulnerable to undue influence.

F. In-Person Solicitation. Psychologists do not engage, directly or through agents, in uninvited in person solicitation of business from actual or potential therapy clients/patients or other persons who because of their particular circumstances are vulnerable to undue influence. However, this prohibition does not preclude:

1. attempting to implement appropriate collateral contacts for the purpose of benefiting an already engaged therapy client/patient; or
2. providing disaster or community outreach services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1307. Record Keeping and Fees

A. Documentation of Professional and Scientific Work and Maintenance of Records. Psychologists create, and to the extent the records are under their control, maintain, disseminate, store, retain and dispose of records and data relating to their professional and scientific work in order to:

1. facilitate provision of services later by them or by other professionals;
2. allow for replication of research design and analyses;
3. meet institutional requirements;
4. ensure accuracy of billing and payments; and
5. ensure compliance with law.

B. Maintenance, Dissemination, and Disposal of Confidential Records of Professional and Scientific Work

1. Psychologists maintain confidentiality in creating, storing, accessing, transferring and disposing of records under their control, whether these are written, automated or in any other medium.

2. If confidential information concerning recipients of psychological services is entered into databases or systems of records available to persons whose access has not been consented to by the recipient, psychologists use coding or other techniques to avoid the inclusion of personal identifiers.

3. Psychologists make plans in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of psychologists' withdrawal from positions or practice.

C. Withholding Records for Nonpayment. Psychologists may not withhold records under their control that are requested and needed for a client's/patient's emergency treatment solely because payment has not been received.

D. Fees and Financial Arrangements

1. As early as is feasible in a professional or scientific relationship, psychologists and recipients of psychological services reach an agreement specifying compensation and billing arrangements.

2. Psychologists' fee practices are consistent with law.

3. Psychologists do not misrepresent their fees.

4. If limitations to services can be anticipated because of limitations in financing, this is discussed with the recipient of services as early as is feasible.

5. If the recipient of services does not pay for services as agreed, and if psychologists intend to use collection agencies or legal measures to collect the fees, psychologists first inform the person that such measures will be taken and provide that person an opportunity to make prompt payment.

E. Barter with Clients/Patients. Barter is the acceptance of goods, services, or other nonmonetary remuneration from clients/patients in return for psychological services. Psychologists ordinarily refrain from accepting goods, services, or other non-monetary remuneration from patients or clients in return for psychological services because such arrangements create inherent potential for conflicts, exploitation, and distortion of the professional relationship. A psychologist may participate in bartering only if:

1. it is not clinically contraindicated; and

2. the resulting arrangement is not exploitative

F. Accuracy in Reports to Payors and Funding Sources. In their reports to payors for services or sources of research funding, psychologists take reasonable steps to ensure the accurate reporting of the nature of the service provided or research conducted, the fees, charges or payments, and where applicable, the identity of the provider, the findings and the diagnosis.

G. Referrals and Fees. When psychologists pay, receive payment from or divide fees with another professional, other than in an employer-employee relationship, the payment to each is based on the services provided (clinical, consultative, administrative or other) and is not based on the referral itself.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1308. Education and Training

A. Design of Education and Training Programs. Psychologists responsible for education and training programs take reasonable steps to ensure that the programs are designed to provide the appropriate knowledge and proper experiences, and to meet the requirements for licensure, certification or other goals for which claims are made by the program.

B. Descriptions of Education and Training Programs. Psychologists responsible for education and training programs take reasonable steps to ensure that there is a current and accurate description of the program content (including participation in required course- or program-related counseling, psychotherapy, experiential groups, consulting projects or community service), training goals and objectives, stipends and benefits and requirements that

must be met for satisfactory completion of the program. This information must be made readily available to all interested parties.

C. Accuracy in Teaching

1. Psychologists take reasonable steps to ensure that course syllabi are accurate regarding the subject matter to be covered, bases for evaluating progress and the nature of course experiences. This standard does not preclude an instructor from modifying course content or requirements when the instructor considers it pedagogically necessary or desirable, so long as students are made aware of these modifications in a manner that enables them to fulfill course requirements.

2. When engaged in teaching or training, psychologists present psychological information accurately.

D. Student Disclosure of Personal Information. Psychologists do not require students or supervisees to disclose personal information in course- or program-related activities, either orally or in writing, regarding sexual history, history of abuse and neglect, psychological treatment and relationships with parents, peers and spouses or significant others except if:

1. the program or training facility has clearly identified this requirement in its admissions and program materials; or

2. the information is necessary to evaluate or obtain assistance for students whose personal problems could reasonably be judged to be preventing them from performing their training- or professionally related activities in a competent manner or posing a threat to the students or others.

E. Mandatory Individual or Group Therapy

1. When individual or group therapy is a program or course requirement, psychologists responsible for that program allow students in undergraduate and graduate programs the option of selecting such therapy from practitioners unaffiliated with the program.

2. Faculty who are or are likely to be responsible for evaluating students' academic performance do not themselves provide that therapy.

F. Assessing Student and Supervisee Performance

1. In academic and supervisory relationships, psychologists establish a timely and specific process for providing feedback to students and supervisees. Information regarding the process is provided to the student at the beginning of supervision.

2. Psychologists evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

G. Sexual Relationships with Students and Supervisees. Psychologists do not engage in sexual relationships with students or supervisees who are in their department, agency, or training center or over whom psychologists have or are likely to have evaluative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1309. Research and Publication

A. Institutional Approval. When institutional approval is required, psychologists provide accurate information about their research proposals and obtain approval prior to conducting the research. They conduct the research in accordance with the approved research protocol.

B. Informed Consent to Research

1. When obtaining informed consent psychologists inform participants about:

a. the purpose of the research, expected duration and procedures;

b. their right to decline to participate and to withdraw from the research once participation has begun;

c. the foreseeable consequences of declining or withdrawing;

d. reasonably foreseeable factors that may be expected to influence their willingness to participate such as potential risks, discomfort or adverse effects;

e. any prospective research benefits;

f. limits of confidentiality;

g. incentives for participation;

h. whom to contact for questions about the research and research participants' rights; and

g. they provide opportunity for the prospective participants to ask questions and receive answers.

2. Psychologists conducting intervention research involving the use of experimental treatments clarify to participants at the outset of the research:

a. the experimental nature of the treatment;

b. the services that will or will not be available to the control group(s) if appropriate;

c. the means by which assignment to treatment and control groups will be made;

d. available treatment alternatives if an individual does not wish to participate in the research or wishes to withdraw once a study has begun; and

e. compensation for or monetary costs of participating including, if appropriate, whether reimbursement from the participant or a third-party payor will be sought.

C. Informed Consent for Recording Voices and Images in Research. Psychologists obtain informed consent from research participants prior to recording their voices or images for data collection unless:

1. the research consists solely of naturalistic observations in public places, and it is not anticipated that the recording will be used in a manner that could cause personal identification or harm; or

2. the research design includes deception, and consent for the use of the recording is obtained during debriefing.

D. Client/Patient, Student, and Subordinate Research Participants

1. When psychologists conduct research with clients/patients, students or subordinates as participants, psychologists take steps to protect the prospective participants from adverse consequences of declining or withdrawing from participation.

2. When research participation is a course requirement or an opportunity for extra credit, the prospective participant is given the choice of equitable alternative activities.

E. Dispensing with Informed Consent for Research. Psychologists may dispense with informed consent only where research would not reasonably be assumed to create distress or harm and involves:

1. the study of normal educational practices, curricula, or classroom management methods conducted in educational settings;

2. only anonymous questionnaires, naturalistic observations or archival research for which disclosure of responses would not place participants at risk of criminal or civil liability or damage their financial standing, employability or reputation, and confidentiality is protected; or

3. the study of factors related to job or organization effectiveness conducted in organizational settings for which there is no risk to participants' employability, and confidentiality is protected; or

4. where otherwise permitted by law or federal or institutional regulations.

F. Offering Inducements for Research Participation

1. Psychologists make reasonable efforts to avoid offering excessive or inappropriate financial or other inducements for research participation when such inducements are likely to coerce participation.

2. When offering professional services as an inducement for research participation, psychologists clarify the nature of the services, as well as the risks, obligations and limitations.

G. Deception in Research

1. Psychologists do not conduct a study involving deception unless they have determined that the use of deceptive techniques is justified by the study's significant prospective scientific, educational or applied value and that effective nondeceptive alternative procedures are not feasible.

2. Psychologists do not deceive prospective participants about research that is reasonably expected to cause physical pain or severe emotional distress.

3. Psychologists explain any deception that is an integral feature of the design and conduct of an experiment to participants as early as is feasible, preferably at the conclusion of their participation, but no later than at the conclusion of the data collection, and permit participants to withdraw their data.

H. Debriefing

1. Psychologists provide a prompt opportunity for participants to obtain appropriate information about the nature, results, and conclusions of the research, and they take reasonable steps to correct any misconceptions that participants may have of which the psychologists are aware.

2. If scientific or humane values justify delaying or withholding this information, psychologists take reasonable measures to reduce the risk of harm.

3. When psychologists become aware that research procedures have harmed a participant, they take reasonable steps to minimize the harm.

I. Humane Care and Use of Animals in Research

1. Psychologists acquire, care for, use, and dispose of animals in compliance with current federal, state and local laws and regulations, and with professional standards.

2. Psychologists trained in research methods and experienced in the care of laboratory animals supervise all procedures involving animals and are responsible for ensuring appropriate consideration of their comfort, health and humane treatment.

3. Psychologists ensure that all individuals under their supervision who are using animals have received instruction in research methods and in the care, maintenance and handling of the species being used, to the extent appropriate to their role.

4. Psychologists make reasonable efforts to minimize the discomfort, infection, illness and pain of animal subjects.

5. Psychologists use a procedure subjecting animals to pain, stress or privation only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, educational or applied value.

6. Psychologists perform surgical procedures under appropriate anesthesia and follow techniques to avoid infection and minimize pain during and after surgery.

7. When it is appropriate that an animal's life be terminated, psychologists proceed rapidly, with an effort to minimize pain and in accordance with accepted procedures.

J. Reporting Research Results

1. Psychologists do not fabricate data.

2. If psychologists discover significant errors in their published data, they take reasonable steps to correct such errors in a correction, retraction, erratum or other appropriate publication means.

K. Plagiarism. Psychologists do not present portions of another's work or data as their own, even if the other work or data source is cited occasionally.

L. Publication Credit

1. Psychologists take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have substantially contributed.

2. Principal authorship and other publication credits accurately reflect the relative scientific or professional contributions of the individuals involved, regardless of their relative status. Mere possession of an institutional position, such as department chair, does not justify authorship credit. Minor contributions to the research or to the writing for publications are acknowledged appropriately, such as in footnotes or in an introductory statement.

3. Except under exceptional circumstances, a student is listed as principal author on any multiple-authored article that is substantially based on the student's doctoral dissertation. Faculty advisors discuss publication credit with students as early as feasible and throughout the research and publication process as appropriate.

M. Duplicate Publication of Data. Psychologists do not publish, as original data, data that have been previously published. This does not preclude republishing data when they are accompanied by proper acknowledgment.

N. Sharing Research Data for Verification

1. After research results are published, psychologists do not withhold the data on which their conclusions are

based from other competent professionals who seek to verify the substantive claims through reanalysis and who intend to use such data only for that purpose, provided that the confidentiality of the participants can be protected and unless legal rights concerning proprietary data preclude their release. This does not preclude psychologists from requiring that such individuals or groups be responsible for costs associated with the provision of such information.

2. Psychologists who request data from other psychologists to verify the substantive claims through reanalysis may use shared data only for the declared purpose. Requesting psychologists obtain prior written agreement for all other uses of the data.

O. Reviewers. Psychologists who review material submitted for presentation, publication, grant or research proposal review respect the confidentiality of and the proprietary rights in such information of those who submitted it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1311. Assessment

A. Bases for Assessments

1. Psychologists base the opinions contained in their recommendations, reports and diagnostic or evaluative statements, including forensic testimony, on information and techniques sufficient to substantiate their findings.

2. Except as noted in this section, psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When, despite reasonable efforts, such an examination is not practical, psychologists document the efforts they made and the result of those efforts, clarify the probable impact of their limited information on the reliability and validity of their opinions and appropriately limit the nature and extent of their conclusions or recommendations.

3. When psychologists conduct a record review or provide consultation or supervision and an individual examination is not warranted or necessary for the opinion, psychologists explain this and the sources of information on which they based their conclusions and recommendations.

B. Use of Assessments

1. Psychologists administer, adapt, score, interpret or use assessment techniques, interviews, tests or instruments in a manner and for purposes that are appropriate in light of the research on or evidence of the usefulness and proper application of the techniques.

2. Psychologists use assessment instruments whose validity and reliability have been established for use with members of the population tested. When such validity or reliability has not been established, psychologists describe the strengths and limitations of test results and interpretation.

3. Psychologists use assessment methods that are appropriate to an individual's language preference and competence, unless the use of an alternative language is relevant to the assessment issues.

C. Informed Consent in Assessments

1. Psychologists obtain informed consent for assessments, evaluations or diagnostic services, except when:

a. testing is mandated by law or governmental regulations;

b. informed consent is implied because testing is conducted as a routine educational, institutional or organizational activity (e.g., when participants voluntarily agree to assessment when applying for a job); or

c. one purpose of the testing is to evaluate decisional capacity. Informed consent includes an explanation of the nature and purpose of the assessment, fees, involvement of third parties and limits of confidentiality and sufficient opportunity for the client/patient to ask questions and receive answers.

2. Psychologists inform persons with questionable capacity to consent or for whom testing is mandated by law or governmental regulations about the nature and purpose of the proposed assessment services, using language that is reasonably understandable to the person being assessed.

3. Psychologists using the services of an interpreter obtain informed consent from the client/patient to use that interpreter, ensure that confidentiality of test results and test security are maintained, and include in their recommendations, reports and diagnostic or evaluative statements, including forensic testimony, discussion of any limitations on the data obtained.

D. Release of Test Data

1. The term test data refers to raw and scaled scores, client/patient responses to test questions or stimuli and psychologists' notes and recordings concerning client/patient statements and behavior during an examination. Those portions of test materials that include client/patient responses are included in the definition of test data. Pursuant to a client/patient release, psychologists provide test data to the client/patient or other persons identified in the release. Psychologists may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances release of confidential information under these circumstances is regulated by law.

2. In the absence of a client/patient release, psychologists provide test data only as required by law or court order.

E. Test Construction. Psychologists who develop tests and other assessment techniques use appropriate psychometric procedures and current scientific or professional knowledge for test design, standardization, validation, reduction or elimination of bias and recommendations for use.

F. Interpreting Assessment Results. When interpreting assessment results, including automated interpretations, psychologists take into account the purpose of the assessment as well as the various test factors, test-taking abilities and other characteristics of the person being assessed, such as situational, personal, linguistic and cultural differences that might affect psychologists' judgments or reduce the accuracy of their interpretations. They indicate any significant limitations of their interpretations.

G. Assessment by Unqualified Persons. Psychologists do not promote the use of psychological assessment techniques by unqualified persons, except when such use is conducted for training purposes with appropriate supervision.

H. Obsolete Tests and Outdated Test Results

1. Psychologists do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.

2. Psychologists do not base such decisions or recommendations on tests and measures that are obsolete and not useful for the current purpose.

I. Test Scoring and Interpretation Services

1. Psychologists who offer assessment or scoring services to other professionals accurately describe the purpose, norms, validity, reliability and applications of the procedures and any special qualifications applicable to their use.

2. Psychologists select scoring and interpretation services (including automated services) on the basis of evidence of the validity of the program and procedures as well as on other appropriate considerations.

3. Psychologists retain responsibility for the appropriate application, interpretation and use of assessment instruments, whether they score and interpret such tests themselves or use automated or other services.

J. Explaining Assessment Results. Regardless of whether the scoring and interpretation are done by psychologists, by employees or assistants or by automated or other outside services, psychologists take reasonable steps to ensure that explanations of results are given to the individual or designated representative unless the nature of the relationship precludes provision of an explanation of results (such as in some organizational consulting, pre-employment or security screenings, and forensic evaluations), and this fact has been clearly explained to the person being assessed in advance.

K. Maintaining Test Security. The term test materials refers to manuals, instruments, protocols and test questions or stimuli and does not include test data as defined in §1311.D. Release of Test Data. Psychologists make reasonable efforts to maintain the integrity and security of test materials and other assessment techniques consistent with law and contractual obligations, and in a manner that permits adherence to this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

§1312. Therapy

A. Informed Consent to Therapy

1. When obtaining informed consent to therapy as required in §1304.J of this Chapter, psychologists inform clients/patients as early as is feasible in the therapeutic relationship about the nature and anticipated course of therapy, fees, involvement of third parties and limits of confidentiality and provide sufficient opportunity for the client/patient to ask questions and receive answers.

2. When obtaining informed consent for treatment for which generally recognized techniques and procedures have not been established, psychologists inform their clients/patients of the developing nature of the treatment, the potential risks involved, alternative treatments that may be available and the voluntary nature of their participation.

3. When the therapist is a trainee and the legal responsibility for the treatment provided resides with the supervisor, the client/patient, as part of the informed consent procedure, is informed that the therapist is in training and is being supervised and is given the name of the supervisor.

B. Therapy Involving Couples or Families

1. When psychologists agree to provide services to several persons who have a relationship (such as spouses, significant others, or parents and children), they take reasonable steps to clarify at the outset:

a. which of the individuals are clients/patients; and

b. the relationship the psychologist will have with each person. This clarification includes the psychologist's role and the probable uses of the services provided or the information obtained.

2. If it becomes apparent that psychologists may be called on to perform potentially conflicting roles (such as family therapist and then witness for one party in divorce proceedings), psychologists take reasonable steps to clarify and modify, or withdraw from, roles appropriately.

C. Group Therapy. When psychologists provide services to several persons in a group setting, they describe at the outset the roles and responsibilities of all parties and the limits of confidentiality.

D. Providing Therapy to Those Served by Others. In deciding whether to offer or provide services to those already receiving mental health services elsewhere, psychologists carefully consider the treatment issues and the potential client's/patient's welfare. Psychologists discuss these issues with the client/patient or another legally authorized person on behalf of the client/patient in order to minimize the risk of confusion and conflict, consult with the other service providers when appropriate, and proceed with caution and sensitivity to the therapeutic issues.

E. Sexual Intimacies with Current Therapy Clients/Patients. Psychologists do not engage in sexual intimacies with current therapy clients/patients.

F. Sexual Intimacies with Relatives or Significant Others of Current Therapy Clients/Patients. Psychologists do not engage in sexual intimacies with individuals they know to be close relatives, guardians, or significant others of current clients/patients. Psychologists do not terminate therapy to circumvent this standard.

G. Therapy with Former Sexual Partners. Psychologists do not accept as therapy clients/patients persons with whom they have engaged in sexual intimacies.

H. Sexual Intimacies with Former Therapy Clients/Patients

1. Psychologists do not engage in sexual intimacies with former clients/patients for at least two years after cessation or termination of therapy.

2. Psychologists do not engage in sexual intimacies with former clients/patients even after a two-year interval except in the most unusual circumstances. Psychologists who engage in such activity after the two years following cessation or termination of therapy and of having no sexual contact with the former client/patient bear the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including:

a. the amount of time that has passed since therapy terminated;

b. the nature, duration, and intensity of the therapy;

- c. the circumstances of termination;
- d. the client's/patient's personal history;
- e. the client's/patient's current mental status;
- f. the likelihood of adverse impact on the client/patient; and
- g. any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client/patient.

I. **Interruption of Therapy.** When entering into employment or contractual relationships, psychologists make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client/patient care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client/patient.

J. **Terminating Therapy**

1. Psychologists terminate therapy when it becomes reasonably clear that the client/patient no longer needs the service, is not likely to benefit, or is being harmed by continued service.

2. Psychologists may terminate therapy when threatened or otherwise endangered by the client/patient or another person with whom the client/patient has a relationship.

3. Except where precluded by the actions of clients/patients or third-party payors, prior to termination psychologists provide pre-termination counseling and suggest alternative service providers as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

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

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the continuing education requirements of psychologists will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed modifications regulate licensed psychologists in the interest of health, safety and the welfare of the public. The Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. Specifically, there is no known or foreseeable effect on: household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or, child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on the staffing level

requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 noon on April 10, 2017.

Jaime T. Monic
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ethical Code of Conduct of Psychologists**

I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the LA Board of Examiners of Psychologists \$1,000 in FY 17, 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 codifies the psychologist's code of ethics into the LAC 46:LXIII, Psychologists. The standards are derived from the American Psychological Association's model ethics code, which is currently being practiced.

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.

Jaime T. Monic
Executive Director
1703#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Examiners of Psychologists**

Fees (LAC 46:LXIII.601 and 603)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Examiners of Psychologists intends to amend §§601 and 603 to define fees charged by the board in accordance with the Louisiana licensing law for psychologist, 37:2354 and the Administrative Procedure Act, R.S. 49:968 and 971.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXIII. Psychologists

Chapter 6. Fees

§601. Licensing Fees

A. Licensing Fees

Licensing Fees	Amount
Application for Licensure	\$200
Application for Provisional Licensure	200
Application for Temporary Registration	125
Jurisprudence Examination Fee	75
Oral Examination (Licensure, specialty change or additional specialty)	250
License Renewal	350
License Renewal Fee for Psychologists Qualifying under R.S. 37:2354(E) for a reduced rate	175
Provisional License Renewal	100
Reinstatement of Lapsed License (Application plus renewal fee)	550
Processing Fees for Paper Renewals	15
License Renewal Extension Request	25

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended the Department of Health, Board of Examiners of Psychologists, LR 43:

§603. Administrative/Other Fees

A. Administrative/Other Fees

Administrative/Other Fees	Amount
Address List/Labels	\$100
License Verification	15
Disciplinary Action Report	25
Replacement Renewal Certificate	15
Replacement License Certificate	25
Miscellaneous Copy Fee (other records)	\$1 page one, \$0.25 each page thereafter

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 33:648 (April 2007), amended LR 39:311 (February 2013), LR 41:2618 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 43:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the supervision requirements of psychologists and specialists in school psychology for licensure is anticipated to have a positive impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; behavior and personal responsibility of children as it relates to promptly facilitating the licensure of qualified professionals who may work with families and families of school aged children to promote their health, education and well-being. This proposed Rule is not anticipated to have an impact on family earnings and family budget or the ability of the family or a local

government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed modifications regulate the licensing requirements of the psychologists and specialist in school psychology in the interest of health, safety and the welfare of the public. The proposed Rule does not have any known or foreseeable negative impact on any child, individual or family as defined by R.S. 49:973(B). Specifically, there is no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct or indirect cost to the providers to provide the same level of service; or
3. the overall ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on April 10, 2017.

Jaime T. Monic
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)

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the LA Board of Examiners of Psychologists \$500 in FY17, 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.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will increase the revenue collections of the Board by approximately \$20,801 in FY 17, \$22,954 in FY 18 and \$25,322 in FY 19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This amendment reinstates fees that were inadvertently dropped, adds a new fee for copies, increases annual renewal and reinstatement fees, and removes the photo ID card fees.

The fees that were inadvertently dropped in an amendment published in December 20, 2015 include: the Replacement Renewal Certificate fee of \$10 each, The Processing Fee for Paper Renewals at \$15 each, and the Renewal Extension Request fee at \$25 each.

This amendment proposes to add a reasonable copy charge for other records requested to be provided by the Board in the amount of \$1 for the first page and \$.25 for each page thereafter.

This proposed amendment increases the annual licensing renewal fee for psychologists from \$320 to \$350, or for qualifying psychologists 65 years of age or older from \$160 to \$175. In accordance with RS 37:2354.C, the reinstatement fee must equal the application fee plus the renewal fee. As a result, the reinstatement fee will increase by \$30 which is applicable only if a psychologist allows their license to lapse for failure to pay the required renewal fee or submit continuing education as required by the laws and rules that govern this Board.

This proposed amendment increases the application fee for a provisional license by \$50. This proposed amendment also aims to eliminate obsolete fees, including the Photo ID Card, which is no longer available for purchase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this rule change.

Jaime T. Monic
Executive Director
1703#020

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Examiners of Psychologists

Supervision of Psychologists and Licensed Specialists in
School Psychology (LAC 46:LXIII.703 and 3301)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend LAC 46:LXIII.703 and 3301.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 7. Supervised Practice Leading toward Licensure

§703. Duration and Setting of Supervised Practice

A. ...

1. Postdoctoral supervised practice hours can begin accruing after the date on which all requirements for the doctoral degree are met, with no outstanding points of evaluation, and verified by the degree-granting institution. Verification must occur via submission of a form and process as delineated by the board. Credit shall not be granted for practice that is in connection with the course work practicum experience for which predoctoral graduate credits are granted.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), LR 13:180 (March 1987), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 29:2075 (October 2003), LR 36:1007 (May 2010), amended by the

Department of Health, Board of Examiners of Psychologists, LR 43:

Subpart 2. Licensed Specialists in School Psychology

Chapter 33. Definition of Applicant for Licensure as a Specialist in School Psychology

§3301. Definition

A. - A.4. ...

5. has completed an internship of at least 1200 hours and nine months in duration, conducted under the supervision of a certified school psychologist in a school setting or by a licensed psychologist in a community setting. Of the 1200 hundred hours, 600 hours shall be completed in a school setting;

6. has completed three years of supervised experience as a certified school psychologist within the public school system. One year of full-time employment or experience, obtained as part of an acceptable internship as defined by the board under §3403 of this Title, may be applied toward the three years of required supervision. Such experience must be obtained within one academic year, in a public school system. Such "academic year" shall be defined by the school calendar in the district of practice;

A.7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2621 (December 2015), amended by the Department of Health, Board of Examiners of Psychologists, LR 43:

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the supervision requirements of psychologists and specialists in school psychology for licensure is anticipated to have a positive impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; behavior and personal responsibility of children as it relates to promptly facilitating the licensure of qualified professionals who may work with families and families of school aged children to promote their health, education and well-being. This proposed Rule is not anticipated to have an impact on family earnings and family budget or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed modifications regulate the licensing requirements of the psychologists and specialist in school psychology in the interest of health, safety and the welfare of the public. The proposed Rule does not have any known or foreseeable negative impact on any child, individual or family as defined by R.S. 49:973(B). Specifically, there is no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct or indirect cost to the providers to provide the same level of service; or
3. the overall ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on April 10, 2017.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Supervision of Psychologists and Licensed Specialists in School Psychology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the LA Board of Examiners of Psychologists \$500 in FY 17, 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 clarifies that, for individuals applying for a license as a Licensed Psychologist, postdoctoral supervision hours can accrue after all doctoral degree requirements are met. The proposed rule also clarifies that the supervision obtained in an internship may be applied toward the required three years of supervised experience needed to obtain a Licensed Specialists in School Psychology license.

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)

This rule benefits those applying for a license as a Licensed Psychologist in that it allows postdoctoral supervision hours to accrue after doctoral degree requirements are met, but before the doctoral degree is conferred. This rule also benefits those applying for a license as a Licensed Specialist in School Psychology in that it allows for experience gained under a supervised internship to be applied toward the experience needed to obtain the license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Jaime T. Monic
Executive Director
1703#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Athletic Trainers General, Licensure and Practice;
(LAC 46:XLV.Chapters 1, 31 and 57)

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 Athletic Trainers Law, R.S. 37:3303, the board proposes to amend its rules on athletic trainers (ATs) to accommodate changes to the law resulting from Act 418 of the 2014 Regular Session of the Louisiana Legislature and to update the rules generally as made necessary by the passage of time and current practices. Among other items, the proposed amendments: convert the authority to practice from certification to a license (Chapters 1, 31 and 57); revise various definitions (§§3103, 5703, 5705); update the educational requirements for licensure eligibility for consistency with the law (§3107); reduce to a simple majority e.g., 4 of the 7 members of its advisory committee necessary for a quorum (§3104.E); provide for licensure by reciprocity for those possessing the requirements prescribed for Louisiana applicants (§3109); repeal various provisions that are no longer applicable (§§3111-3125); update designation of the examination entity from the National Athletic Trainers Association to the BOC (§§3133, 3147); simplify seldom-used provisions on temporary permits (§3162) and remove the associated fee (§161.B); streamline provisions relative to continuing education and provide for BOC approved continuing education (CE) programs (§§3163-3179). Currently, athletic trainers must earn and report 24 credit hours of CE every two years. The proposed amendments would require athletic trainers to earn and report 12 hours of CE annually (§§3159, 3165). The proposed changes also: update the provisions dealing with exemptions from licensure to provide for assistant coaches administering and supervising their normal sports activities and students enrolled in an accredited training program (§5111); provide for compliance with the code of ethics of the BOC (§5717); and incorporate the causes prescribed by law upon which the board may refuse to issue, or take action against, a license (§5719).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions Subpart 1. General

Chapter 1. Fees and Costs

Subchapter F. Athletic Trainers Fees

§159. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensure of athletic trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:

§161. Licenses

A. For processing applications for licensure as an athletic trainer, a fee of \$125 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:

§163. Annual Renewal

A. For processing an application for annual renewal of an athletic trainer's license, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subpart 2. Licensure and Certification

Chapter 31. Athletic Trainers

Subchapter A. General Provisions

§3101. Scope of Chapter

A. The rules of this Chapter govern the licensure of athletic trainers in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3103. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Advisory Committee—the Athletic Training Advisory Committee to the Board, constituted under and pursuant to §3104.

Applicant—a person who has applied to the board for licensure as an athletic trainer.

Application—a request received by the board, in a manner prescribed by the board, for licensure as an athletic trainer in the state of Louisiana.

Athlete—an individual designated as such by the board, an educational institution, a professional athletic organization, or other board-approved organization who participates in an athletic activity sponsored by such institution or organization.

Athletic Trainer—an individual licensed by the board as an athletic trainer with the specific qualifications set forth in R.S. 37:3306.1 who, under the general supervision of a physician, carries out the practice of prevention, emergency management, and physical rehabilitation of injuries and sports-related conditions incurred by athletes. In carrying out these functions, the athletic trainer shall use whatever physical modalities are prescribed by a team physician or consulting physician, or both.

* * *

Board-Approved Organization—one of the following:

a. Approved organization, including but not limited to the Amateur Athletic Union, the International Olympic Committee and its affiliates including but not limited to the U.S. Olympic Committee, the Pan American Sports Organization, the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics, college and university intramural sports, and sports events of the National Federation of State High School Associations;

b. An organization, whose athletic activity meets one or more of the following:

i. has an officially-designated coach or individual who has the responsibility for athletic activities of the organization;

ii. has a regular schedule of practices or workouts that are supervised by an officially-designated coach or individual;

iii. is an activity generally recognized as having an established schedule of competitive events or exhibitions;

iv. has a policy that requires documentation of having a signed medical clearance by a licensed physician or other board authorized health care provider as a condition for participation for the athletic activities of the organization.

BOC—Board of Certification for the Athletic Trainer or its successor.

CAATE—the Commission on Accreditation of Athletic Training Education or its successor.

Educational institution—a university, college, junior college, high school, junior high school, or grammar school, whether public or private.

LATA—the Louisiana Athletic Trainer's Association.

Licensure or License—the board's official recognition of a person's lawful authority to act and serve as an *athletic trainer* as such term is defined by the law, R.S. 37:3302.

Louisiana Athletic Trainers Law or the Law—Acts 1985, number 288, as amended, R.S. 37:3301-3313.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3104. Athletic Training Advisory Committee

A. ...

B. Composition and Qualifications. The advisory committee shall comprise seven members, including five athletic trainers and two physicians, each of whom shall, to be eligible for and prior to appointment to the committee, be licensed as an athletic trainer or licensed as a physician by and in good standing with the board, have maintained residency and practice in the state of Louisiana for not less than one year and have not less than three years of experience in their respective fields. In addition to such general qualifications, the athletic trainer and physician members of the advisory committee shall satisfy the following qualifications.

1. Athletic Trainer Members. The athletic trainer members of the committee shall be appointed and apportioned as follows:

a. - b. ...

c. insofar as practical or possible, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by licensed athletic trainers residing and practicing throughout Louisiana, with at least one member from the Alexandria, Louisiana area or north, and at least one member from south of such area.

2. - 2.b....

C. Appointment; Term of Service. Each member of the advisory committee shall be appointed by the board. Each member of the advisory committee shall serve on the committee for a term of three years, or until his or her successor is appointed, and shall be eligible for reappointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. assist the board in examining the qualifications and credentials of applicants for athletic trainer licensure and make recommendations thereon to the board;

2. advise and assist the board, as the board may request, with respect to investigative and disciplinary proceedings affecting licensed athletic trainers;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies, and procedures respecting athletic trainer licensure and practice; and

4. establish and appoint a continuing education subcommittee, comprising no fewer than three athletic trainer members of the advisory committee, to discharge the responsibilities prescribed by §3169.

E. Committee Meetings, Officers. The advisory committee shall meet at least once each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or as requested by the board. The presence of four members including at least one physician member, shall constitute a quorum of the advisory committee. The advisory committee shall elect, from among its members, a chairman, a vice-chair, and a secretary. The chairman, or in his absence or unavailability, the vice-chair, shall call, designate the date, time, and place of, and preside at all meetings of the committee. The secretary shall record, or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter B. Requirements and Qualifications for Licensure

§3105. Scope of Subchapter

A. The rules of this Subchapter govern and prescribe the requirements, qualifications, and conditions requisite to eligibility for licensure as an athletic trainer in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR

§3107. Requirements for Licensure

A. To be eligible and qualified for licensure, an applicant shall:

1. ...

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

3. possess a degree in athletic training from a CAATE accredited program, or a comparable degree accepted by the BOC and approved by the board:

a. an athletic training program accredited by CAATE on the date the applicant's degree was awarded or the program or curriculum was completed shall be considered a CAATE accredited program;

b. a degree that is accepted by the BOC as a comparable degree to a CAATE accredited athletic training program, shall be concurrently considered approved by the board for purposes of this Section;

4. possess BOC certification evidencing the successful passage of the certification examination administered by the BOC or its successor;

5. - 6. ...

7. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), LR 35:1886 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3109. License by Reciprocity

A. An individual who possesses a current, unrestricted license to practice as an athletic trainer issued by the medical licensing authority of another state, the District of Columbia, or a territory of the United States, shall be eligible for licensure in this state if the applicant meets all of the qualifications for licensure specified in §3107 of this Subchapter, and satisfies the procedural and other requirements specified in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3301-3313.

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

Subchapter C. Board Approval

§3111. Scope of Subchapter

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health, Board of Medical Examiners, LR 43:

§3113. Applicability of Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009), repealed by the Department of Health, Board of Medical Examiners, LR 43:

§3115. Approval of Schools and Colleges

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health, Board of Medical Examiners, LR 43:

§3117. Approval of Physical Therapy Schools

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health, Board of Medical Examiners, LR 43:

§3119. Approval of Athletic Trainers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health, Board of Medical Examiners, LR 43:

§3121. Approval of Athletic Organization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health, Board of Medical Examiners, LR 43:

§3123. Withdrawal of Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986), repealed by the Department of Health, Board of Medical Examiners, LR 43:

§3125. List of Approved Schools, Colleges, and Universities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), repealed by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter D. Application

§3127. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure as an athletic trainer in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3129. Application Procedure

A. Application for licensure shall be made in a manner prescribed by the board.

B. Application and instructions may be obtained from the board's website.

C. An application for licensure under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this Chapter; and

2. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for licensure.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:235 (February 2004), LR 35:1887 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3131. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, organization, or association by whom or with whom the applicant has been employed as an athletic trainer, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capability to act as an athletic trainer with reasonable skill or safety to athletes may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports, or recommendations

pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation, set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §3131, to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the athletic trainer licensure or licensing authority of any state, the National Athletic Trainer's Association, the Louisiana Athletic Trainer's Association, the Board of Certification, the Louisiana Department of Health and Hospitals, state, county or parish, and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter F. Examination

§3133. Designation of Examination

A. The examination administered and accepted by the board pursuant to R.S. 37:3306.1.A is the Board of Certification or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3147. Passing Score

A. An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the BOC as a passing score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3149. Reexamination

A. An applicant having failed to attain a passing score upon taking the licensure examination may take a subsequent examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by House Concurrent Resolution 69 of the 2012 Regular Legislative Session, LR 38:1460 (June 2012), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter G. License Issuance, Expiration, Renewal, Reinstatement, Temporary Permit

§3153. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §3107 and §3129 are met to the satisfaction of the board, the board shall issue to the

applicant a license to practice athletic training in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1888 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3155. Expiration of Licenses

A. Every license issued by the board under this Chapter shall expire, and thereby become null, void, and to no effect, on the 30th day of June next following the date on which license was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR

§3157. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, in a format prescribed by the board, together with the applicable renewal fee prescribed in Chapter 1 of these rules.

B. A notice for renewal of license shall be sent by the board to each person holding a license issued under this Chapter on or before the first day of June of each year. Such notice shall be sent to the most recent address of each licensed athletic trainer as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3159. Qualifications for Renewal; Continuing Education

A. To be eligible for annual renewal, a licensed athletic trainer shall successfully complete 12 credits/hours of continuing education recognized by the BOC and shall evidence such continuing education as prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3161. Reinstatement of License

A. A license which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made in a manner prescribed by the board, together with the applicable renewal fee plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year from the date on which the license expired, as a condition of reinstatement the board may

require that the applicant complete a statistical affidavit in a manner prescribed by the board, and/or possess current, unrestricted certification or licensure issued by another state.

D. A licensed issued by the board pursuant to R.S. 37:3306.1.B is subject to reinstatement provided the application is made within the two year time limit specified in §3161.A of these rules and in accordance with all other requirements specified by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3162. Temporary Permit

A. General. The board may, in its discretion, issue such temporary licenses as are in its judgment necessary or appropriate to its responsibilities under law. A temporary license shall be designated and known as a permit.

B. Effect of Permit. A permit entitles the holder to engage in the practice of athletic training in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensure or renewal of the permit after its expiration.

C. Permit Pending Application. The board may issue a permit to practice athletic training, effective for a period of 30 days, to an applicant who has made application to the board for licensure as an athletic trainer, who provides satisfactory evidence of current BOC certification and who is not otherwise demonstrably ineligible for certification under R.S. 37:3307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:3301-3313 and 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:830 (April 2002), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1888 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter H. Continuing Education

§3163. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing education requisite to renewal of licensure as an athletic trainer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3165. Continuing Education Requirement

A. To be eligible for annual renewal an athletic trainer shall evidence, in a manner prescribed by the board, the successful completion of not less than 12 hours of BOC approved continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3167. Qualifying Programs and Activities

A. ...

B. Upon application to the board pursuant to §3171 of these rules, the board may approve additional programs and activities as qualifying for continuing education and specify

the hours which shall be recognized with respect to such program or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3169. Continuing Education Subcommittee

A. The continuing education subcommittee of the advisory committee ("the CE subcommittee"), constituted under authority of §3104, shall have the authority and responsibility to:

1. ...

2. review documentation of continuing education by licensed athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules;

3. request and obtain from applicants for renewal of licensure such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the CE subcommittee is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:938 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3171. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3167.A sponsored or offered by the BOC or LATA shall presumptively be deemed approved by the board for purposes of qualifying as an approved continuing education activity.

B. Upon the recommendation of the CE subcommittee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing education activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3173. Approval of Activities

A. A continuing education activity of any type defined by §3167 sponsored by an organization or entity not deemed approved by the board pursuant to §3171 or an activity of a type specified by §3167 may be pre-approved by the board prior to participation in such activity or application for renewal of licensure upon written request to the board therefor accompanied by a complete description of the nature, location, date, content, and purpose of such activity and such other information as the board may request to establish compliance of such activity with the standards prescribed by §3167.A.

B. ...

C. Prior approval of a continuing education activity by the board is not necessary for recognition of such activity by the board for purposes of meeting the continuing education requirements requisite to renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3175. Documentation Procedure

A. Licensed athletic trainers shall maintain a record or certificate of attendance for at least four years from the date of completion of the acceptable continuing education activity.

B. Any certification of continuing education activities not presumptively approved or preapproved in writing by the board pursuant to these rules shall be referred to the CE subcommittee for its evaluation and recommendations pursuant to §3169.A.2. If the CE subcommittee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education hours claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3177. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing education requirements prescribed by the rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, un-renewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. ...

2. applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness, acts of God, fire, or other good cause as may be determined by the board.

B. The license of an athletic trainer which has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon application to the board filed within two years of the effective date of expiration, nonrenewal, or revocation accompanied by satisfactory documentation of the completion of not less than 30 continuing education hours within the prior two years and

payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

§3179. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the CE subcommittee, waive all or part of the continuing education required by these rules in favor of an athletic trainer who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subpart 3. Practice

Chapter 57. Athletic Trainers

Subchapter A. General Provisions

§5701. Scope of Chapter

A. The rules of this Chapter govern the employment and practice of licensed athletic trainers in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§5703. General Definitions

A. The definitions set forth in Chapter 31 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§5705. Special Definitions

A. The *Activities of an Athletic Trainer*—the practice of prevention, emergency management, and physical rehabilitation of injuries and sports-related conditions incurred by athletes. In carrying out these functions, the athletic trainer shall use whatever physical modalities are prescribed by a team physician or consulting physician, or both. The results of these activities should be recorded.

B. *Practice of Prevention* shall include but is not limited to the following:

1. working cooperatively with supervisors and coaches in establishing and implementing a program of physical conditioning for athletes;

2. applying protective or injury-preventive devices such as taping, padding, bandaging, strapping, wrapping, or bracing;

3. working cooperatively with supervisors, coaches, and a team physician or consulting physician in the selection and fitting of protective athletic equipment for each athlete and constantly monitoring that equipment for safety; and

4. ...

C. *Emergency Management*—the care given to an injured athlete under the general supervision of the team or consulting physician. To accomplish this care, an athletic trainer may use such methods as accepted first aid procedures approved by the American Red Cross, the American Heart Association, or protocols previously established by the athletic trainer and the team or consulting physicians.

D. *Physical Rehabilitation*—the care given to athletes following injury and recovery. These treatments and rehabilitation programs may consist of pre-established methods of physical modality use and exercise as prescribed by a team physician, consulting physician, or both. Physical rehabilitation also includes working cooperatively with and under the general supervision of a physician with respect to the following:

1. reconditioning procedures;
2. operation of therapeutic devices and equipment;
3. fitting of braces, guards, and other protective devices;
4. referrals to other physicians, auxiliary health services, and institutions. Referrals will be made with the agreement of the athlete or, in the case of a minor, with agreement of a parent or guardian except when circumstances require emergency transfer and the parent or guardian is unavailable.

E. *General Supervision*—the service is furnished under a physician's overall direction and control, but the physician's presence shall not be required during the provision of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter B. Prohibitions

§5709. Unauthorized Practices

A. No person shall hold himself out to the public, any public educational institution, any athletic organization, or any individual student, amateur, or professional athlete as an "athletic trainer" or licensed athletic trainer in the state of Louisiana, nor identify or designate himself as such, nor use in connection with his name the letters, "AT," "CLAT" or "ATC," or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a licensed athletic trainer, unless he is currently licensed by the board as a licensed athletic trainer.

B. No person shall undertake to perform or actually perform, for compensation or other remuneration, the activities of an athletic trainer, as defined in this Chapter (§5705) unless he is currently licensed by the board as an athletic trainer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§5711. Exemptions

A. The prohibitions of Subsection 5709.B of this Chapter shall not apply to:

1. an assigned athletic coach administering and supervising his normal sports activities;

2. a person who undertakes to perform or actually performs the activities of an athletic trainer in the employment of an educational institution or athletic organization domiciled in another state, while accompanying and attending athletes of an educational institution or athletic organization domiciled in another state during or in connection with an athletic contest conducted in Louisiana;

3. a person acting under and within the scope of professional licensure issued by another licensing agency of the state of Louisiana; or

4. any person enrolled in a CAATE accredited athletic training education program and who is designated by a title which clearly indicates his status as a student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§5713. Prohibitions: Licensed Athletic Trainers

A. A licensed athletic trainer shall not:

1. undertake to perform or actually perform any activities, preventive measures, emergency management, physical rehabilitation of injury, or any other functions, treatments, modalities, procedures, or regimes, except under the direction and general supervision of a physician, employed or engaged as a team or consulting physician by the educational institution or athletic organization by which the licensed athletic trainer is employed or engaged;

2. prescribe, dispense, or administer any controlled substances; or

3. dispense or administer any medications for ingestion, subcutaneous, transdermal, intramuscular, or intravenous injection or topical application, except upon the prescription and direction, or pursuant to the written protocol of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter C. Ethical Guidelines and Standards of Practice

§5715. Ethical Guidelines

A. A licensed athletic trainer shall, in performance of the activities of an athletic trainer, observe and abide by the code of ethics of the Board of Certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§5717. Standards of Practice

A. A licensed athletic trainer shall, in performance of the activities of an athletic trainer, observe and abide by the standards of practice announced and promulgated from time to time by the board pursuant to rules and regulations, advisory opinions, and interpretations and statements of position.

B. It shall be deemed a violation of minimum standards of practice applicable to licensed athletic trainers for a licensed athletic trainer to violate of the code of ethics of the Board of Certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter D. Grounds for Administrative Action

§5719. Causes for Administrative Action

A. The board may refuse to issue a license to, or suspend, revoke, or impose probationary conditions and restrictions on the license of an applicant for licensure or a licensed athletic trainer for any of the causes provided by R.S. 37:3308.1 of the Louisiana Athletic Trainers Law (R.S. 37:3301-3313) if the licensee or applicant:

1. has been convicted of or entered a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. has been convicted of or entered a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of an athletic trainer;

3. commits perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a license to practice as an athletic trainer;

4. provides false testimony before the board or provides false sworn information to the board;

5. engages in habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicits patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

7. makes or submits false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. demonstrates cognitive or clinical incompetency;

9. engages in unprofessional conduct;

10. engages in continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of practice as an athletic trainer in this state;

11. knowingly performs any act which in any way assists an unlicensed person to practice as an athletic trainer, or having professional connection with or lending one's name to an illegal practitioner;

12. pays or gives anything of economic value to another person, firm, or corporation to induce the referral of injured athletes to an athletic trainer;

13. has been interdicted by due process of law;

14. is unable to practice as an athletic trainer with reasonable competence, skill, or safety to patients because of mental or physical illness, condition, or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

15. refuses to submit to an examination and inquiry by an examining committee of physicians appointed by the board to inquire into the applicant's or licensee's physical or mental fitness and ability to practice as an athletic trainer with reasonable skill or safety;

16. practices or otherwise engages in any conduct or functions beyond the scope of practice of an athletic trainer as defined by this Chapter or the board's rules;

17. has been subjected to the refusal of the licensing authority or another state to issue or renew a license, permit, or certificate to practice as an athletic trainer in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;

18. has been subjected to denial, revocation, suspension, probation, or other disciplinary sanction from the BOC or its successor for violation of the standards of professional practice;

19. has violated any rules and regulations of the board, or any provisions of this Chapter.

B. The board may reinstate any license suspended or revoked hereunder, or restore to unrestricted status any license subjected to probationary conditions or restrictions by the board upon payment of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board; provided, however, that an application for reinstatement of a license revoked by the board shall not be made or considered by the board prior to the expiration of one year following the date on which the board's order of revocation became final.

C. The board may, as part of a decision, consent order, or other agreed order, require the applicant or license holder to pay all costs of the board's proceedings and a fine not to exceed \$1,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

§5723. Causes for Action; Definitions

A. As used in R.S. 37:3308.1 of the law, a person who has "secured a license by fraud or deceit" means and includes a person who:

1. makes any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to an application for licensure under Chapter 31 of these rules; or

2. makes any representation, or fails to make a representation, or engages in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the questions for licensure required by Chapter 31 of these rules.

B. As used in §5719.A of this Chapter, the term *convicted*, as applied to a licensed athletic trainer or applicant for licensure as an athletic trainer, means that a

judgment has been entered against such person by a court of competent jurisdiction on the basis of a finding or verdict of guilt or a plea of guilty or nolo contendere. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction and notwithstanding the fact that an appeal or other application for relief from such judgment is pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., April 21, 2017.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Monday, April 24, 2017 at 10:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Keith C. Ferdinand, M.D.
Interim Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Athletic Trainers General, Licensure and Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the LA State Board of Medical Examiners \$2,804, 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 change amends the Louisiana State Board of Medical Examiners athletic training rules to conform to Act 418 of the 2014 Regular Session of the Louisiana Legislature and to update the rules to conform to current practices. The proposed amendments implement the following: convert the authority to practice from a certification to a license; revise various definitions; update the educational requirements for licensure eligibility for consistency with the law; reduce to a simple majority e.g., 4 of the 7 members of its advisory committee necessary for a quorum; provide for licensure by reciprocity for those possessing the requirements prescribed for Louisiana applicants; repeal various provisions that are no longer applicable; update the designation of the examination entity from the National Athletic Trainers Association to the Board of Certification (BOC); simplify the seldom used provisions on temporary permits and remove the associated fee; streamline provisions relative to continuing education, and provide for BOC approved continuing education (CE) programs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This amendment removes fees associated with the issuance of temporary permits. However, it is not anticipated that removal of this fee will have an impact on revenue collections of the board, given that in recent years, no temporary permits have been issued.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule changes the CE requirement for athletic trainers from 24 hours in a 2-year period to 12 hours per year. The aggregate license cost to trainers over a 2-year period remains the same. Therefore, 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.

Keith C. Ferdinand, M.D.
Interim Executive Director
1703#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Physician Assistants, Licensure
and Certification; Practice
(LAC 46:XLV Chapters 15 and 45)

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 Physician Assistant Practice Act, R.S. 37:1360.21-1360.38, the board, working with its Physician Assistant (PA) Advisory Committee, intends to amend its rules governing PAs, LAC 46:XLV Chapters 15 and 45, to conform them to Act 453 of the 2016 Regular Session of the Louisiana Legislature and to update the rules generally as made necessary by the passage of time. Among other items, the proposed amendments: revise various definitions; e.g., “controlled substance” to include schedule II drugs, and “supervision” to clarify that the level and method of PA supervision shall be at the physician and PA level (§1503.A); clarify exemptions (§1505); update licensure requirements (§1507); remove the requirement that a physician hold an unrestricted license to serve as a supervising physician (SP) (§1508); make various technical changes (§§1510, 1513, 1517, 1527, 1529) and repeal a section that is no longer applicable (§1519); reduce the period of clinical practice after graduation from a PA program from one year to six months for registration of controlled dangerous substance (CDS) authority with the board and remove certain impediments to PA CDS registration; e.g., prior action against hospital privileges and prior exam failure (§1521); remove a prohibition against a SP in a medical residency or post-graduate training from delegating prescriptive authority to a PA (§1523); and clarify that continuing education requirements are the same as needed for maintenance of certification by the National Commission on Certificate of Physician Assistants (§1529). The amendments also conform the rules to Act 453 with respect to: the services performed by PAs (§4505), the prescription, ordering and administration of CDS (§4505); and the number of PAs for whom a physician may serve as primary SP (§4507). The changes also update the mutual obligations of the SP and PA (§4511) and provide that performance plan requirements shall be considered satisfied if the PA’s practice site requires chart review as part of its joint commission ongoing professional practice evaluation process for PAs (§4512). The proposed amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 15. Physician Assistants

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

* * *

Controlled Substance—for purposes of this definition, any substance designated or that may hereafter be designated as a Scheduled II, III, IV, or V controlled substance in R.S. 40:964.

* * *

Physician Assistant (PA)—a health care professional qualified by academic and clinical education and licensed by the board to provide health care services at the direction and under the supervision of a physician or a group of physicians approved by the board as a supervising physician(s).

* * *

Protocol or Clinical Practice Guidelines or Clinical Practice Guidelines or Protocols—a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. If prescriptive authority has been delegated to the physician assistant by the supervising physician the clinical practice guidelines or protocols shall contain each of the components specified by §1521.A.5. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. The supervising physician and physician assistant shall maintain a written copy of such clinical practice guidelines and protocols, which shall be made immediately available for inspection by authorized representatives of the board.

* * *

Supervision—responsible direction and control, with the supervising physician assuming responsibility for the services rendered by a physician assistant in the course and scope of the physician assistant's employment, with respect to patients for whose care, or aspect of care, the physician is responsible. Supervision shall not be construed in every case to require the physical presence of the supervising physician. However, the supervising physician and physician assistant must have the capability to be in contact with each other by either telephone or other telecommunications device. Supervision shall exist when the supervising physician responsible for the care, or aspect of care of the patient, gives informed concurrence of the actions of the physician assistant, whether given prior to or after the action, and when a medical treatment plan or action is made in accordance with written clinical practice guidelines or protocols set forth by the supervising physician. Such guidelines or protocols shall require that the physician assistant contact the supervising physician when there is a question or uncertainty as to what should be done in a given case or when an approved protocol does not address the clinical situation presented. The level and method of supervision shall be at the physician and physician assistant level, shall be documented and reviewed annually, and shall reflect the acuity of the patient care and nature of the procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999), LR 31:73 (January 2005), LR 34:244 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1505. Necessity for License; Registration of Prescriptive Authority

A.1. - A.2. ...

B. Any person who acts or undertakes to perform the functions of a physician assistant without a current physician assistant license issued under this Chapter, or prescribes medication or medical devices without or beyond registration of such authority approved by the board, shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to:

1. any physician assistant employed by the federal government while performing duties incidental to that employment;

2. ...

3. any physician assistant student enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, its predecessors or successor; provided, however, that a physician assistant student shall not prescribe legend drugs or medical devices or be eligible for registration of prescriptive authority; and

4. a physician assistant administering medical services in cases of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999), LR 31:74 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1507. Qualifications for Licensure

A. To be eligible for licensure under this Chapter, an applicant shall:

1. - 2. ...

3. demonstrate his competence to provide patient services under the supervision and direction of a supervising physician by:

a. being a graduate of a physician assistant training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA), or its predecessors or successors, including but not limited to the Accreditation Review Commission on Education for the Physician Assistant, and by presenting or causing to be presented to the board satisfactory evidence that the applicant has successfully passed the national certification examination administered by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors, together with satisfactory documentation of current certification; or

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1508. Qualifications for Registration as Supervising Physician

A. To be eligible for approval and registration under this Chapter, a proposed primary supervising physician or locum tenens physician shall, as of the date of the application:

1. be licensed to practice medicine in the state of Louisiana; and

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(b)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:29 (January 1999), LR 34:244 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1510. Application for Registration as Supervising Physician; Procedure

A. - A.6. ...

B. A physician seeking to supervise a physician assistant may be required to appear before the board upon his notification to the board of his intention to supervise a physician assistant:

1. upon a first notification to the board of the physician's intention to supervise a physician assistant if the board finds discrepancies in the physician's application; or

B.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended LR 25:29 (January 1999), LR 34:245 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1513. Issuance of License; Registration of Prescriptive Authority; Working Permit; Updating Information

A.1. - A.2. ...

B. The board may grant a working permit (temporary license), valid and effective for one year but renewable for one additional year, to an applicant who otherwise meets the qualifications, requirements and procedures for licensure, except that the applicant has not yet taken or is awaiting the results of the national certification examination.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999), LR 31:74 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1517. Expiration of Licensure; Renewals; Modification; Notification of Intent to Practice

A. ...

B. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born, by submitting to the board an application for renewal in a format approved by the board, together with:

1. satisfactory verification of current certification by the National Commission on Certificate of Physician Assistants or its successors; and

2. the applicable fee as provided in Chapter 1 of these rules.

C. A physician assistant licensed in this state, prior to initiating practice, shall submit in a format approved by the board notification of such intent to practice. Such notification may be deemed effective as of the date received by the board, subject to final approval by the board.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR

25:31 (January 1999), LR 30:238 (February 2004), LR 34:245 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1519. Transfer of Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 31:75 (January 2005), LR 34:245 (February 2008); repealed, by the Department of Health, Board of Medical Examiners, LR 43:

§1521. Qualifications for Physician Assistant Registration of Prescriptive Authority

A. Legend Drugs/Medical Devices. To be eligible for registration of prescriptive authority for legend drugs or medical devices, or both, a physician assistant shall:

1. ...
2. possess a current license to practice as a physician assistant duly issued by the board;
3. ...
4. - 4.b. Repealed.
5. practice under supervision as specified in clinical practice guidelines or protocols developed by the supervising physician that shall, include a performance plan, as specified in §4512 of these rules.

B. Controlled Substances. To be eligible for prescriptive authority for controlled substances, a physician assistant shall:

1. ...
2. possess a current, unrestricted permit or license to prescribe controlled substances in Louisiana duly issued by the Board of Pharmacy or its successor, and be currently registered to prescribe controlled substances without restriction as to the schedules delegated by the supervising physician with the Drug Enforcement Administration, United States Department of Justice (DEA);
3. not be deemed ineligible for registration for any of the causes set forth in §1521.C;
4. have completed six months of practice under a supervising physician after graduation from an accredited PA education program satisfying the requirements of this Chapter; and
5. successfully complete an educational activity developed or approved by the board, respecting controlled dangerous substances.

C. - C.4. ...

C.5. - C.7. Repealed.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 1360.23(D) and (F), and 1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:75 (January 2005), amended LR 38:3174 (December 2012), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1523. Qualifications of Supervising Physician for Registration of Delegation of Prescriptive Authority

A. Legend Drugs and Medical Devices. To be eligible for approval of registration to delegate authority to prescribe legend drugs or medical devices, or both, to a physician assistant a supervising physician shall:

1. ...
2. Repealed.
3. - 4. ...

B. Controlled Substances. To be eligible for approval of registration to delegate authority to prescribe controlled substances to a physician assistant a supervising physician shall:

1. satisfy the requirements of §1523.A; and
2. possess a current, unrestricted permit or license to prescribe controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Hospitals, State of Louisiana, and be currently registered to prescribe controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice (DEA);

C. A physician shall be deemed ineligible for registration to delegate authority to prescribe controlled substances to a physician assistant for any of the causes enumerated by R.S. 37:1285(A), or violation of any other provision of the Louisiana Medical Practice Act, R.S. 37:1261 et seq., or the board's rules.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:76 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1527. Supervising Physician Application for Registration of Delegation of Prescriptive Authority; Procedure

A. Physician application for approval and registration of delegation of prescriptive authority to a physician assistant shall be made upon forms supplied by the board and shall include:

1. ...
2. confirmation that the physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof as documented in clinical practice guidelines;
3. a description of the manner and circumstances in which the physician assistant has been authorized to utilize prescriptive authority and the geographical location(s) where such activities will be carried out as documented in clinical practice guidelines;

A.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:

§1529. Expiration of Registration of Prescriptive Authority; Renewal; Continuing Education

A. - B. ...

C. The PA, together with the SP, shall annually verify the accuracy of registration information on file with the board, and confirm compliance with the continuing education requirements prescribed by this Section.

D. Continuing Education. Every physician assistant seeking renewal of registration of prescriptive authority shall obtain such continuing education as is required to maintain current NCCPA certification.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subpart 3. Practice

Chapter 45. Physician Assistants

§4505. Services Performed by Physician Assistants

A. The practice of a physician assistant shall include the performance of medical services that are delegated by the supervising physician and are within the scope of the physician assistant's education, training, and licensure. A physician assistant is considered to be and is deemed the agent of his supervising physician in the performance of all practice-related activities, including but not limited to assisting in surgery and ordering and interpretation of diagnostic and other medical services with appropriate supervision provided. The level and method of supervision shall be at the supervising physician and physician assistant level, shall be documented in clinical practice guidelines, reviewed annually and shall reflect the acuity of patient care and the nature of a procedure.

B. In accordance with a written clinical practice guideline or protocol medical services rendered by a physician assistant may include: screening patients to determine need for medical attention; eliciting patient histories; reviewing patient records to determine health status; performing physical examinations; recording pertinent patient data; performing developmental screening examinations on children; making preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; making appropriate referrals; preparing patient summaries; requesting initial laboratory studies; collecting specimens for blood, urine and stool analyses; performing urine analyses, blood counts and other laboratory procedures; identifying normal and abnormal findings on history, physical examinations and laboratory studies; initiating appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; performing clinical procedures such as venipuncture, intradermal testing, electrocardiography, care and suturing of wounds and lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardio-pulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation

techniques; providing counseling and instruction regarding common patient problems; monitoring the effectiveness of therapeutic intervention; assisting in surgery; signing for receipt of medical supplies or devices that are delivered to the supervising physician or supervising physician group; and, to the extent delegated by the supervising physician, prescribing legend drugs and controlled substances listed in R.S. 40:964 as schedule II, III, IV and V substances and prescribing medical devices. A physician assistant may inject local anesthetic agents subcutaneously, including digital blocks or apply topical anesthetic agents when delegated to so by a supervising physician. This list is illustrative only, and does not constitute the limits or parameters of the physician assistant's practice.

C. A physician assistant may prescribe, order and administer drugs to the extent delegated by the SP, except as provided pursuant to R.S. 37:930 relative to anesthetics. Drugs which may be prescribed, ordered, and administered by a PA are those listed in schedules II, III, IV and V of R.S. 40:964 and legend drugs.

D. The activities listed in this Section may be performed in any setting authorized by the supervising physician including but not limited to clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes, other institutional settings, and health manpower shortage areas.

E. A physician assistant shall not:

1. - 2. ...

3. except to the extent delegated by a supervising physician, issue prescriptions for any medication;

4. - 4.b. ...

5. act as or engage in the functions of a physician assistant when the supervising physician and the physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication device;

6. identify himself, hold himself out to the public, or permit any other person to identify him, as "doctor," "medical doctor," "doctor of medicine" or "physician" or render any service to a patient unless the physician assistant has clearly identified himself as a physician assistant by any method reasonably calculated to advise the patient that the physician assistant is not a physician licensed to practice medicine; or

7. administer local anesthetics perineurally, pericurally, epidurally, intrathecally, or intravenously unless such physician assistant is a certified registered nurse anesthetist and meets the requirements in R.S. 37:930.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:32 (January 1999), LR 31:78 (January 2005), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§4506. Services Performed by Physician Assistants

Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. A physician assistant who is registered with the board pursuant to §§1521 and 1525 of these rules to prescribe medication and/or medical devices may, to the extent delegated by a supervising physician:

A.1.a. - B.5. ...

C. A physician assistant who has been delegated prescriptive authority shall not:

1. - 4. ...

5. issue a prescription or order for any Schedule I controlled substance contained or hereinafter included in R.S. 40:964; or

6. ...

D. A PA who has been delegated controlled substance prescriptive authority shall enroll in and periodically accesses the Prescription Monitoring Program (PMP) established by R.S. 40:1001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:79 (January 2005), amended LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§4507. Authority and Limitations of Supervising Physician

A. The supervising physician (SP) is responsible for the supervision, control, and direction of the physician assistant (PA) and retains responsibility to the patient for the competence and performance of the PA.

B. An SP may delegate medical services identified as core competencies by the National Commission on Certification of Physician Assistants or its successors ("core competencies"), under general *supervision* as defined in §1503.A of this Part.

C. - C.5.b. ...

D. An SP may not serve as a PSP for more than four PAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:32 (January 1999), LR 34:246 (February 2008), LR 38:1233 (May 2012), amended by the Department of Health, Board of Medical Examiners, LR 43:

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1. - 3. ...

4. insure that with respect to patient encounters, all activities, functions, services, treatment measures, medical devices or medication prescribed or delivered to the patient by the physician assistant are properly documented in written form in the patient's record by the physician assistant as evidenced by compliance with the clinical practice guidelines established by the supervising physician and physician assistant;

5. - 5.c. ...

6. maintains a written agreement in compliance with R.S. 37:1360.22(8), that includes a statement that the physician shall exercise supervision over the physician assistant in accordance with R.S. 37:1360.21 et seq.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR

31:79 (January 2005), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§4512. Performance Plan

A. - C. ...

D. For joint commission-accredited practice sites, the performance plan requirements of §4512.A.2 and 4512.B.-C. of these rules shall be considered satisfied if the practice site requires chart review as part of its joint commission ongoing professional practice evaluation (OPPE) process for PAs. For a hospital practice site that is joint commission-accredited, but does not require chart review as part of its OPPE process, or that not is joint commission accredited, the PA and his or her SP shall be responsible for meeting the requirements of §4512.A-C of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23, and 37:1360.28.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed 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., April 21, 2017.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Monday, April 24, 2017 at 11:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp

Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Keith C. Ferdinand, M.D.
Interim Executive Director

employment opportunities for PAs and physicians serving as SPs.

Keith C. Ferdinand, M.D.
Interim Executive Director
1703#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Assistants,
Licensure and Certification; Practice**

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the publication fee associated with the proposed rule changes, which are estimated to cost the LA State Board of Medical Examiners \$1,473, 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 change amends the Louisiana State Board of Medical Examiners physician assistant's rules to conform to Act 453 of the 2016 Regular Session of the Louisiana Legislature and other technical updates. Among the changes, the proposed amendments: revise various definitions e.g., "Controlled Substance" to include Schedule II drugs, and "Supervision" to clarify that the level and method of Physician Assistants (PA) supervision shall be at the physician and PA level; clarify exemptions; update licensure requirements; remove the requirement that a physician hold an unrestricted license to serve as a supervising physician (SP); make various technical changes and repeal a section that is no longer applicable; reduce the period of clinical practice after graduation from a PA program from one year to six months for registration of controlled dangerous substance (CDS) authority with the Board and remove certain impediments to PA CDS registration e.g., prior action against hospital privileges and prior exam failure; remove a prohibition against a SP in a medical residency or post-graduate training from delegating prescriptive authority to a PA; and clarify that continuing education requirements are the same as needed for maintenance of certification by the National Commission on Certificate of Physician Assistants.

**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 amendments remove certain impediments to PA registration of CDS authority with the Board and reduce the period of clinical practice after graduation for such registration. The proposed amendments also remove the requirement that a physician hold an unrestricted license to serve as a SP and remove the prohibition from registering to delegate prescriptive authority while in a medical residency or post-graduate training. These changes may, in turn, increase the income of PAs and SPs impacted by these changes by an indeterminable amount. Otherwise, it is not anticipated that the proposed amendments will have any material effect on income, costs, paperwork or workload of PAs or SPs licensed to practice in this state or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Because of the decreased restrictions, the proposed amendments may increase the number of PAs eligible for prescriptive authority; physicians eligible to serve as SPs; and SPs eligible to delegate prescriptive authority to PAs. These changes may, to an extent not quantifiable, enhance

Nursing Facilities
Preadmission Screening and Resident Review
(LAC 50:II.Chapter 5)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services repealed the provisions governing admission reviews, preadmission screening and medical eligibility determination requirements and adopted revised provisions governing nursing facility admissions (*Louisiana Register*, Volume 36, Number 05). The department now proposes to amend the provisions governing admissions for nursing facilities by revising the procedures for the preadmission screening and resident review process in order to: 1) remove the requirement that the level I preadmission screening and resident review (PASRR) form be completed by a physician; 2) extend the number of days that the level II authority may make an advance group determination for individuals who require convalescent care in a nursing facility; 3) require nursing facilities to notify the level II authority if a PASRR was not completed or was completed incorrectly; and 4) clarify existing provisions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 1. General Provisions

Chapter 5. Admissions

§503. Medical Certification

A. ...

1. The following documents are required for all nursing facility admissions:

a. a preadmission screening and resident review (level I PASRR) form completed by a qualified health care professional as defined by OAS. The level I PASRR form addresses the specific identifiers of MI or ID that indicate that a more in-depth evaluation is needed to determine the need for specialized services. The need for this in-depth assessment does not necessarily mean that the individual cannot be admitted to a nursing facility, only that the need for other services must be determined prior to admission; and

b. a level of care eligibility tool (LOCET) assessment.

NOTE: These documents must not be dated more than 30 days prior to the date of admission. The level I PASRR form must be signed and dated on the date that it is completed.

2. - 3. ...

B. If the information on the level I PASRR does not indicate that the individual may have a diagnosis of MI and/or ID and he/she meets the criteria for nursing facility level of care, OAAS may approve the individual for admission to the nursing facility.

1. Once approval has been obtained, the individual must be admitted to the facility within 30 days of the date of the approval notice. The nursing facility shall submit a completed BHSF Form 148 to the parish Medicaid office and OAAS indicating the anticipated payment source for the nursing facility services.

C. If the information on the level I PASRR indicates that the individual may have a diagnosis of MI and/or ID, and the individual meets the criteria for nursing facility level of care, the individual shall be referred to the Office of Behavioral Health or the Office for Citizens with Developmental Disabilities (the state's mental health and intellectual disability level II authorities) for a level II screening to determine level of services provided by a nursing facility and whether specialized services are needed.

1. - 2. ...

D. Vendor Payment. Medicaid vendor payment shall not begin prior to the date that medical and financial eligibility is established, and shall only begin once the individual is actually admitted to the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:1011 (May 2010), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

§505. Categorical Advance Group Determinations

A. In order to assure timely and appropriate care for applicants, the level II authority may make an advance group determination by category that takes into account that certain diagnoses, levels of severity of illness or need for a particular service clearly indicates the need for nursing facility admission or that the provision of specialized services is not normally needed. The applicable level II authority may make an advance group determination that nursing facility care is needed for persons in the following categories.

1. Convalescent Care. If an applicant appears to be in need of level II assessment but is hospitalized for a serious illness and needs time to convalesce before a valid level II assessment can be performed, provisions may be made for temporary medical certification for nursing facility care. The maximum period of time that a level II assessment may be delayed is 100 days. The period of convalescence allowed will be consistent with the diagnosis and medical condition of the individual.

2. - 3.c....

d. advanced chronic obstructive pulmonary disease;

A.3.e. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:1011 (May 2010), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

§509. Changes in Level of Care and Status

A. The nursing facility shall notify the parish Medicaid office via the BHSF Form 148 of the following changes in a resident's circumstances:

1. change in the level of care;
2. transfer to another nursing facility;
3. change in payer source;
4. ...
5. discharge home, death or any other breaks in facility care.

B. The nursing facility must inform the appropriate level II authority if an individual with a diagnosis of MI and/or ID is subject to readmission or interfacility transfer and there has been a substantial change in the individual's condition, or if a level I screen was not completed or was completed incorrectly.

1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office of Aging and Adult Services, LR 36:1012 (May 2010), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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, April 27, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Nursing Facilities

Preadmission Screening and Resident Review

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that \$378 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing admissions for nursing facilities by revising the procedures for the preadmission screening and resident review process in order to: 1) remove the requirement that the level I Preadmission Screening and Resident Review (PASRR) form be completed by a physician; 2) extend the number of days that the level II authority may make an advance group determination for individuals who require convalescent care in a nursing facility; 3) require nursing facilities to notify the level II authority if a PASRR was not completed or was completed incorrectly; and 4) clarify existing provisions. It is anticipated that implementation of this proposed rule will have no costs, but is beneficial to nursing facilities in FY 16-17, FY 17-18 and FY 18-19 by easing the administrative burden on staff by allowing more flexibility in the PASRR process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1703#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Offender Mail and Publications (LAC 22:I.313)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of §313, Offender Mail and Publications.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

§313. Offender Mail and Publications

A. - E. ...

* * *

Nudity—pictorial depiction of genitalia or female breasts (with the nipple or areola exposed).

* * *

F.- H. ...

1. Offenders shall not be allowed to receive or possess photographs or digital or other images that interfere with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of offenders, maintenance of internal/external security of an institution, or maintenance of an environment free of sexual harassment), or to prevent the commission of a crime or to protect the interests of crime victims. This includes photographs, digital or other images which expose the genitals, genital area (including pubic hair), anal area or female breasts (or breasts which are designed to imitate female breasts). These areas must be covered with garments which cannot be seen through.

H.2. - I.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), Guajardo v. Esteile, 580 F.2d 748 (5th Cir.1978).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 33:851 (May 2007), LR 38:830 (March 2012), LR 39:2281 (August 2013), LR 41:2665 (December 2015), LR 43:

Family Impact Statement

Amendment to the current Rule should not have any known or foreseeable impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Natalie LaBorde, Deputy Assistant Secretary, Department of Public Safety and

James M. Le Blanc
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Offender Mail and Publications**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on State or Local Governmental Unit expenditures. The proposed rule change is a technical adjustment that amends the current regulation to clarify, further define and expand upon the proper procedures and rules governing Offender Mail and Publications.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1703#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the
School Employees' Retirement System**

Limitation on Benefits (LAC 58:VII.401)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:2225(B), the Board of Trustees of the School Employees' Retirement System has approved for advertisement the adoption of Subparagraph h to the definition of *415 safe-harbor compensation* under §401.F of Chapter 4 of Part VII, included in Title 58, Retirement, of the *Louisiana Administrative Code*. The proposed Rule is being adopted to clarify that the definition of *415 safe-harbor compensation* includes differential wage payments. A preamble to this proposed action has not been prepared.

Title 58

RETIREMENT

Part VII. School Employees' Retirement System

Chapter 4. Internal Revenue Code Provisions

§401. Limitation on Benefits

A. - F. ...

415 Safe-Harbor Compensation—

a. - g. ...

h. For limitation years beginning after December 31, 2008, compensation shall also include any differential wage payments as defined in code section 3401(h) which:

i. is made by the employer to an individual with respect to any period during which an individual is performing service in the uniformed services (as defined in chapter 43 of title 38, *United States Code*) while on active duty for a period of more than 30 days; and

ii. represents all or a portion of the remuneration such individual would have received from the employer if he or she was performing services for the employer.

G. - G.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Louisiana School Employees' Retirement System, LR 38:3241 (December 2012), amended by the Department of the Treasury, Board of Trustees of the School Employees' Retirement System, LR 43:

Family Impact Statement

The proposed adoption of LAC 58:VII.401.F, Subparagraph h to the definition of 415 Safe-Harbor Compensation, 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. family earnings and family budget;
5. the behavior and personal responsibility of children; or
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 rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the 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

Any interested person may submit written comments regarding this proposed Rule to Charles P. Bujol, Executive Director, School Employees' Retirement System, by mail to 8660 United Plaza Blvd., Baton Rouge, LA 70809. All comments must be received no later than 4:30 p.m., April 9, 2017.

Charles P. Bujol
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: *Limitation on Benefits*

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed rule change. The proposed rule codifies federal law that defines differential wage payments for those performing uniformed service while on active duty. The Internal Revenue Code requires inclusion of this definition. Members of the School Employee's Retirement System do not receive differential pay when performing uniformed service while on active duty; therefore, there is no fiscal impact. However, to remain an IRS qualified plan, the system must include the IRS definition.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change. In the event employers choose to provide differential pay in the future, the plan will need to be amended and there will likely be a cost to the employer and the retirement system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment as a result of the proposed rule change.

Charles P. Bujol
Executive Director
1703#018

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Children and Family Services

Louisiana's 2017 Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2017 Annual Progress and Services Report (APSR). The APSR is a report on the achievement of goals and objectives and/or outcomes for year three of the 2015-2019 Child and Family Services Plan (CFSP). This plan addresses the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds and serves as the applications for additional funds from these federal sources.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protective services, family services-prevention and intervention services, foster care, adoption and the youth transition services. The Department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment opportunities. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs and to support Citizen Review Panels statewide.

The DCFS is encouraging public participation in the planning of services and the writing of this document. The report can be found for review on the internet under <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132> then the 2016 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P O Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 3, 2017 at 4:00 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in

writing, at a public hearing scheduled for May 3, 2017 at 10:00 a.m. in Room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

1703#013

POTPOURRI

Department of Children and Family Services

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2017, and ending June 30, 2018. The proposed SFY 2017-2018 SSBG intended use report has been developed in compliance with the requirements of section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state department, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2017-2018 SSBG expenditures for adoption, child protection, family services, and foster care/residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2017-2018 are:

POTPOURRI

**Department of Economic Development
Office of Business Development**

**Notice of Public Hearing—Substantive Changes to Proposed
Rule: Industrial Ad Valorem Tax Exemption Program
(LAC 13:I.Chapter 5)**

A. adoption (pre-placement to termination of parental rights);

B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;

C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of supplemental security income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2050 would qualify as income eligible for services;

E. persons receiving title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

The post expenditure report for the SSBG program for SFY 2016 is included in the SSBG intended use report for SFY 2017-2018. Free copies are available by telephone request to (225) 342-341-7319 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131>, then select the 2016-2017 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 3, 2017 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 3, 2017 at 11 a.m. in Room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

1703#012

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking to incorporate substantive changes to LAC 13:I.501, 502, 503, and 505, which were originally noticed in the November 20, 2016, issue of the *Louisiana Register*. The department is not making any changes to the Notice of Intent as published in the November 20, 2016 issue of the *Louisiana Register* for LAC 13:I.507-537.

The department has made the following substantive changes to address comments received. These changes clarify that:

- both Executive Orders JBE 16-26 and 16-73 are applicable to these rules changes;
- only those applications with advance notifications filed after June 24, 2016 are subject to the rule changes;
- the definition of manufacturing is to include mass production as well as custom production that utilizes manual labor;
- the parish governing authority and municipality by resolution speak on behalf of themselves as well as other bodies in their jurisdiction that receive millages;
- failure of a local governing entity to issue a resolution or letter within 120 day of a business' written request will result in the business receiving an exemption from the silent entity equal to the mathematical average of the other parish entities that did respond and issue a resolution or letter;

LED shall receive a copy of the business' written request from the local governing entity to issue a resolution or letter and LED shall post those requests on its website; and

Renewal of miscellaneous capital addition contracts granted in compliance with the governor's executive orders shall be treated in accordance with prior rules.

In the interest of clarity and transparency, the department is providing public notice and opportunity to comment on the proposed changes to the amendments of the regulations.

The following changes are to be incorporated into the Notice of Intent.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 5. Industrial Ad Valorem Tax Exemption Program

§501. Statement of Purpose

A. New Rules

1. These rules amend and restate prior rules and upon adoption are to implement two important policies for the industrial tax exemption property tax exemption. The first is

as a competitive incentive for job creation and under compelling circumstances, job retention. The second is to provide for input from local parish and municipal governments, school boards and sheriffs as to the extent of, and other terms and conditions for the industrial tax exemption.

2. On all projects, applicant manufacturers are to demonstrate a genuine commitment to investing in the communities in which they operate, and a genuine commitment to creating and retaining jobs in those communities. These are the expectations for the program's future, and the board will continue to operate it in a way that makes Louisiana competitive with other states in securing good jobs for our citizens while giving local governments a voice in their taxation. These rules are to be interpreted in a manner so as to promote these goals.

B. Applicability of Prior Rules. Just as the board is promoting job growth and economic development and extending fairness to communities, the board is promoting fairness to manufacturers who have acted in accordance with prior rules. Contracts for the industrial property tax exemption and the renewal of the exemption and projects found to be pending as defined by Executive Orders JBE 16-26 and JBE 16-73 are to be treated fairly under the rules that were in place at the time of the contracts and prior to the new rules. Louisiana honors its commitments and the rules governing existing contracts and applications not subject to the new rules are to be interpreted in order to promote fairness and commitment. Therefore, only those applications with an advance notification form filed after June 24, 2016, are subject to the 2017 rules changes.

C. Going Forward

1. Louisiana values its manufacturers and their contributions to its economy. The board's policies going forward are to provide all a seat at the table to determine the best investment outcome for our industries and our communities.

2. All rules in this chapter are intended to align with the above purpose while providing a process that balances accountability with reasonable administrative burden for state and local government and applicants.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 43:

§502. Definitions

Addition to a Manufacturing Establishment—

1.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness.

2. Maintenance capital, environmentally required capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment.

3. Expenses associated with the rehabilitation or restoration of an establishment as provided for in Section 511 shall be included as an addition to a manufacturing establishment.

Beginning of Construction—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

Board—Board of Commerce and Industry.

Capital Expenditure—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including the purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

Environmentally Required Capital Upgrades—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty.

Establishment—an economic unit at a single physical location.

Integral—required to make whole the product being produced.

Job—positions of employment that are:

1. new (not previously existing in the state) or retained;

2. permanent (without specific term);

3. full-time (working 30 or more hours per week);

4. employed directly, by an affiliate or through contract labor;

5. based at the manufacturing establishment;

6. filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and

7. any others terms of employment as negotiated in the Exhibit A or Exhibit B.

LED—Louisiana Economic Development.

Local Governmental Entity—parish governing authority, school board, sheriff, and any municipality in which the manufacturing establishment is or will be located.

Maintenance Capital—costs incurred to conserve as nearly as possible the original condition.

Manufacturer—a person or business who engages in manufacturing at a manufacturing establishment.

Manufacturing—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be "suitable for use" as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

Obsolescence—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

Qualified Disaster—

1. a disaster which results from:

a. an act of terror directed against the United States or any of its allies; or

b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises

2. any disaster which, with respect to the area in which the property is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal state or local government or agency of instrumentality thereof; or

4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable

Rehabilitation—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.

Restoration—repairs to bring a building or structure to at least its original form or an improved condition.

Secretary—Secretary of Louisiana Economic Development.

Site—One or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 43:

§503. Advance Notification; Application

A. An advance notification of intent to apply for tax exemption shall be filed with the LED Office of Business Development (OBD) on the prescribed form prior to the beginning of construction or installation of facilities on all projects for tax exemption except as provided in §505.A and B of these rules. An advance notification fee of \$250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification. The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the estimated project ending date.

B. All financial incentive programs for a given project shall be filed at the same time and on the same advance notification. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An application for tax exemption may be filed with OBD on the prescribed form:

1. either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first;

2. the deadline for filing the application may be extended pursuant to §523;

3. an applicant filing an application prior to the beginning of operations or end of construction of the project shall file an annual status report with OBD on the prescribed form by December 31, until the project completion report

and affidavit of final cost are filed. If the applicant fails to timely file a status report the board may, after notice to the applicant, terminate the contract.

D. In order to receive the board's approval, applications with advance notifications filed after June 24, 2016, shall contain both of the following:

1. an exhibit "A" consisting of a fully executed cooperative endeavor agreement between the state, Louisiana Economic Development and the applicant specifying the terms and conditions of the granting of the exemption contract;

a. the terms and conditions of the exhibit "A" shall include the following:

i. either number of jobs and payroll to be created at the project site or the number of jobs and payroll to be retained at the project site where applicable;

ii. the term of the exemption contract which shall be for up to, but no more than five years and may provide for an ad valorem exemption of up to 100 percent and terms for renewal may be included provided that the renewal of the contract shall be for a period up to, but no more than three years and may provide for an ad valorem tax exemption of up to, but no more than 80 percent;

iii. the percentage of property eligible for the exemption;

iv. any penalty provisions for failure to create the requisite number of jobs or payroll at the project site, including but not limited to, a reduction in term, reduction in percentage of exemption, or termination of the exemption; and

v. a statement of return on investment (ROI) as determined by the secretary;

2. an exhibit "B" consisting of resolutions adopted by the parish governing authority (speaking on behalf of the parish and all parish bodies who are located outside the boundary of the affected municipality, where applicable, who receive a millage), the school board, and any municipality (speaking on behalf of the municipality and all municipal bodies who receive a millage) and a letter from the sheriff approving the project in which the manufacturing establishment is or will be located signifying whether each of these authorities is in favor of the project;

a. exhibit "B" shall include provisions addressing the following:

i. the number of jobs and payroll to be created at the project site required by the local governmental entity for approval of the exemption;

ii. the term of the exemption contract approved by the local governmental entity; and

iii. the percentage of property eligible for the exemption approved by the local governmental entity;

b. failure of the parish governing authority, the school board, or the municipality to issue a resolution or failure of the Sheriff to issue a letter within 120 days of a business' written request for such resolution shall result in an exemption equal to the mathematical average of the term and percentage exemption granted by the other local governing bodies who have issued a resolution or letter;

i. the business shall copy LED on its written request to the parish governing authority, school board and municipality for the required resolutions and its written request to the sheriff for the required letter;

ii. LED shall post a copy of the business' written request to the parish governing authority, school board and municipality for the required resolutions and the business' written request to the sheriff for the required letter no later than three business days after receipt of the request;

c. LED will provide guidance to local governmental entities as to suggested alternatives as it relates parameters for job creation, payroll, percentage of exemption and length of contract;

3. the board shall consider the information collected and the provisions of exhibits "A" and "B" in determining whether to approve the contract for exemption and the renewal thereof;

4. if the terms of exhibit "A" and exhibit "B" as it relates to the term of the exemption, and the percentage of property tax eligible for exemption are not the same, the provisions of exhibit "B" shall prevail.

E.1. Applications which provide for a new manufacturing establishment or which provide for an addition to a manufacturing establishment with the creation of new jobs or a compelling reason for the retention of existing jobs shall be favored by the board.

2. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following situations may be considered:

- a. to prevent relocation to another state or country;
- b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;
- c. to employ best practice or innovative, state of the art technology for the establishment's industry;
- d. to increase maximum capacity or efficiency; or
- e. to provide the state a competitive advantage as determined by the secretary or by the board.

F. An application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$500 and in no case shall a fee exceed \$15,000 per project.

G. OBD reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the form is incomplete or incorrect, or the correct fee is not submitted. The document may be resubmitted with the correct information and fee.

H. If the application is submitted after the filing deadline, the term of exemption available under an initial contract and renewal thereof shall be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the maximum remaining term. The board may impose any other penalty for late filing that it deems appropriate.

I. The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action.

J. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet

the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered by the Board of Commerce and Industry. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to review and approval of the project completion report and affidavit of final cost. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:2318 (November 2015), LR 43:

§505. Miscellaneous Capital Additions

A. The renewal of miscellaneous capital addition contracts approved in accordance with JBE 16-26 and 16-73 shall be treated in accordance with prior rules.

B. Miscellaneous capital additions which had pending contractual applications on June 24, 2016, and which provide for new jobs at the completed manufacturing establishment shall be considered by the board.

C. Miscellaneous capital additions which did not have a pending contractual application as of June 24, 2016 or those with pending applications as of June 24, 2016, but do not provide for new jobs, are not eligible for the property tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:2318 (November 2015), LR 43:

No fiscal or economic impact will result from the amendments proposed in this notice.

The changes are available for viewing on the Louisiana Department of Economic Development website, at www.opportunitylouisiana.com.

Public Hearing

A public hearing on the substantive changes to the Notice of Intent only will be held on April 20, 2017, at 10 a.m. in the LaSalle Building, Griffon Room, 617 N. Third Street, Baton Rouge, LA 70802. All persons submitting written comments should reference the March 2017 ITEP Potpourri. Such comments must be received no later than April 20, 2017, at 12 p.m., and should be sent to Danielle Clapinski, Staff Attorney, Louisiana Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185, or e-mail at danielle.clapinski@la.gov. The comment period for the

substantive changes to the November 2016 Notice of Intent ends on April 20, 2017.

Anne G. Villa
Undersecretary

1703#031

POTPOURRI

Department of Environmental Quality Office of Management and Finance

Fees—Office of the Secretary, Air, Hazardous Waste, Solid Waste, Water Quality, Underground Storage Tank, and Radiation Protection—Risk/Cost Benefit Statement

Introduction

The Louisiana Department of Environmental Quality (LDEQ) is proposing amendments to the Office of the Secretary, Air, Hazardous Waste, Solid Waste, Water Quality, Underground Storage Tank, and Radiation Protection regulations that would increase the fees collected in these programs. The department collects these fees from members of the regulated community covered by these programs. The majority of increases are designated for the Environmental Trust Fund, while there are minor increases to the Motor Fuel Trust Fund, the Waste Tire Trust Fund and the Lead Hazard Reduction Fund. Act 451 of the 2016 Regular Session of the Louisiana Legislature authorized the increase in fees. (1703Pot1)

This statement is prepared to satisfy the requirements of R.S. 30:2019(D) and R.S. 49:953(G) (Acts 600 and 642 of the 1995 Louisiana Legislature, respectively). However, this document is not a quantitative analysis of cost, risk, or economic benefit, although costs of implementation were identified to the extent practical. The statutes allow a qualitative analysis of economic and environmental benefit where a more quantitative analysis is not practical. The department asserts that the benefits of a Rule designed to retain personnel in departmental programs justify the costs associated with the fee increases passed by the Louisiana Legislature during the 2016 Regular Session.

Fiscal analysis of the department indicates a need for increased revenue to properly perform the necessary functions of the department. Currently, the only source of funding for the department is through fees charged for services provided. An increase in fees is necessary to properly fund the department.

An analysis was made of the department's historical expenditures necessary to operate the programs and to enforce the regulations required by state and federal law. These expenditures include the costs associated with the issuance of permits, licenses, and registrations; enforcement; surveillance; and all other program costs including equipment, training, and other related expenses. These expenditures were compared to the revenue generated for each program (e.g., air, water, hazardous waste, solid waste, etc.) with the fee structure in place prior to this legislation. The percentage increases proposed for the fees for each program were aligned with the existing funding deficiency and intended to generate sufficient revenues to support all program operations.

Therefore, the qualitative approach is taken with the risk/cost benefit statement. As discussed further in this document, these amendments to the Office of the Secretary, Air, Hazardous Waste, Solid Waste, Water Quality, Underground Storage Tank, and Radiation Protection regulations provide environmental and economic benefits. Assessing dollar benefits of avoided environmental risk or the economic benefits of this rule is not practicable. In addition, the department asserts that the indirect and direct environmental and economic benefits to be derived from this Rule will, in the judgment of reasonable persons, outweigh the costs associated with the implementation of the Rule and that the Rule is the most cost-effective alternative to achieve these benefits.

Risks Addressed by the Rule

The Rule addresses the risks associated with the potential pollution or toxic releases caused or exacerbated by inadequate or lack of department-sponsored surveillance, enforcement, and emergency response. The Rule does this by providing the funds necessary to allow the department to maintain current staffing levels and ensure federal, state, and local environmental regulations are properly applied and monitored. Without a revenue increase, the department would no longer be able to operate at current staffing levels in the next several years. If staffing was further reduced, the department would be unable to meet its obligations to the public, industry, oversight entities, and other stakeholders.

Environmental and Health Benefits of this Rule

The additional funds collected through this Rule will provide the revenue necessary to carry out the legal mandates of the department. This will result in multimedia inspections of waste-producing facilities around the state as required by local, state, and federal mandates. The fees will allow the monitoring of facilities that is necessary for curbing or preventing releases into the environment. The fee increases will also contribute to the discovery and remediation of unauthorized waste sites around the state. Overall, the increases will allow LDEQ to continue monitoring and maintaining the state's air, water, and land resources, further preventing any incidents or occurrences that may jeopardize the safety or health of Louisiana's citizens.

Social and Economic Costs

This Rule is an amendment to raise fees that are already assessed or assess fees for work already being performed, and as such, there are no significant costs to implement the Rule. Representatives of the regulated community are in favor of the proposed increase to fund the department at a level necessary to carry out its mandates.

Persons currently regulated by the Office of the Secretary, Air, Hazardous Waste, Solid Waste, Water Quality, Underground Storage Tank, and/or Radiation Protection regulations would pay additional fees beginning in fiscal year 2018. These new fees would generate an estimated \$9.4 million annually in statutory-dedicated fees.

Persons directly affected will pay additional fees; however, these fees will provide benefits in excess of the fees. The adequate monitoring of regulated facilities would reduce or prevent unauthorized releases into the environment. In addition, health hazards will be removed in the form of unauthorized waste sites, and sites that may

endanger the health of Louisiana citizens can be properly remediated. These functions will not only protect human health and the environment, but will aesthetically enhance the state for the benefit of its citizens.

Conclusion

The department believes that the benefits of maintaining the environmental and public health protection outweigh the costs of implementation of the rule. Therefore, the department concludes that the Rule is the most cost-effective alternative to achieve these benefits.

Karyn Andrews
Undersecretary

1703#027

POTPOURRI

**Department of Health
Office of Public Health
Bureau of Family Health**

Public Notice of Title V MCH Block Grant

The Louisiana Department of Health (LDH) intends to apply for Title V Maternal and Child (MCH) Block Grant Federal Funding for FY 2017-2018 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Bureau of Family Health is responsible for program administration of the grant.

The block grant application describes in detail the goals and planned activities to advance maternal and child health and the health and systems of care for children and youth with special health care needs. Grant priorities are based on the results of a statewide needs assessment conducted in 2015, which is updated annually based on relevant data collection.

Interested persons may view a summary of the application at: <http://www.dhh.louisiana.gov/index.cfm/page/935>

Additional information may be gathered by contacting Gloria Grady at (504) 568-3521.

M. Beth Scalco
Interim Assistant Secretary

1703#025

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
Big River Oil Field Services, LLC	Bayou Cocodrie, Middle	M	Angelina	003	150243

Operator	Field	District	Well Name	Well Number	Serial Number
Big River Oil Field Services, LLC	Dobbs Bay	M	Ellis B swd	001	165625
Big River Oil Field Services, LLC	Dobbs Bay	M	Ellis B	003	171232
Big River Oil Field Services, LLC	Dobbs Bay	M	Ellis B	006	177918
Big River Oil Field Services, LLC	Bayou Cocodrie, Northwest	M	Quinn E	001	191757
Big River Oil Field Services, LLC	Bayou Cocodrie, Northwest	M	Quinn E swd	002	193247
Big River Oil Field Services, LLC	Bayou Cocodrie, Southeast	M	Angelina	001	212405
Big River Oil Field Services, LLC	Mississippi Bayou	M	Madison Mb	001	241202
Big River Oil Field Services, LLC	Mississippi Bayou	M	Madison Mb swd	002	241368
Big River Oil Field Services, LLC	Bayou Cocodrie, Middle	M	Angelina A	001	242084
Big River Oil Field Services, LLC	Charenton	L	May S Veeder et al	001	245586
Big River Oil Field Services, LLC	Charenton	L	Henry Ecuer	001	245588
Big River Oil Field Services, LLC	Bayou Cocodrie, Northwest	M	Quinn E	002	248177
Big River Oil Field Services, LLC	Prichard	M	Clovelly Oil Co LLC et al	001	248711
Big River Oil Field Services, LLC	Bayou Cocodrie, Middle	M	Angelina RC swd	001	974844
Onyx Energy LLC	Glenmora	L	W M Elliott	001	40658
Onyx Energy LLC	Glenmora	L	Gill-Dempsey Unit	001	42513
Onyx Energy LLC	Glenmora	L	Glenmora swd	006	42862
Onyx Energy LLC	Glenmora	L	WX 1 B ra sua;W M Elliott	001-D	127451
Onyx Energy LLC	Glenmora	L	10850 sua;J J Gill	001	130961
Onyx Energy LLC	Glenmora	L	Elliott sua;J J Gill	001D	131858
Onyx Energy LLC	Glenmora	L	Audrey G Andrus	001	134909

Operator	Field	District	Well Name	Well Number	Serial Number
Onyx Energy LLC	Glenmora	L	10850 suc;W M Elliott	002	136228
Onyx Energy LLC	Glenmora	L	W M Elliott	002D	136817
Onyx Energy LLC	Glenmora	L	James P Gill et al	001	197272
Onyx Energy LLC	Glenmora	L	Vua;Willow Branch	001	220941
Onyx Energy LLC	Glenmora	L	Vua;Morris Jones	001	229715
Onyx Energy LLC	Glenmora	L	Vua;Morris Jones	002	231257
Onyx Energy LLC	Glenmora	L	Vud;Mcgilv ary	001	233878
Onyx Energy LLC	Glenmora	L	Vue;Mcgilv ary	002	234024
T.O. Greer Productions	San Miguel Creek	S	Benton Johnson	001	233799
East Texas Refining Co	Rodessa	S	U S Government	01-UNIT	22492
Windsor Oil Company	Red River-Bull Bayou	S	Jenkins	001	17309
Aviara Energy Corporation	Le Blanc	L	J M Leblanc et ux	001	214028(30)
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Bradford	001	52609
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Bradford	003	52900
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Rhoda Bradford	001	89992
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Rhoda Bradford A	001	90492
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	010	150673
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Rhoda Bradford A	002	156761
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	001	156869
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	003	156871
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	004	157305
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	005	157306
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	006	157307
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	007	157308
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	009	158728
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Ducote B	001	159300

Operator	Field	District	Well Name	Well Number	Serial Number
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Medade	002	159426
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Ducote B	009	159430
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Gamm A	003	159513
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Rhoda Bradford	002	159592
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA Su; Gamm	001	159833
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA Su; Gamm A	004	159874
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA Su;Medade	003	159899
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA Su;Gayle	002	159943
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Rhoda Bradford	003	159998
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Rhoda Bradford	004	160282
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Rhoda Bradford	005	160283
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su;Ducote B	013	160533
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su;Gamm	002	160607
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Gamm Wsw	003	170657
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su;Ducote A	001	172265
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Bradford	004	174141
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	011	188993
High-Hope Oil And Gas, Inc	Trenton	S	Deason	001	190779
High-Hope Oil And Gas, Inc	Lake End	S	Joe D Simpson	001	195498
High-Hope Oil And Gas, Inc	Lake End	S	Ada Perkins	001	197357
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	012	204041
High-Hope Oil And Gas, Inc	Redoak Lake	S	M B Dupree	013	204042
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Bradford	005	217363

Operator	Field	District	Well Name	Well Number	Serial Number
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Gamm A	005	218499
High-Hope Oil And Gas, Inc	Red River-Bull Bayou	S	Blount	001	227129
High-Hope Oil And Gas, Inc	Red River-Bull Bayou	S	Blount	002	229017
High-Hope Oil And Gas, Inc	Caddo Pine Island	S	Capi Pxy RA su; Gamm	005	972520
Array Operating, LLC	Bayou Cocodrie, Northeast	M	Angelina CH	001	171936

Operator	Field	District	Well Name	Well Number	Serial Number
Array Operating, LLC	Bayou Cocodrie, Northeast	M	Angelina CH	002	171937
Array Operating, LLC	Bayou Cocodrie, Northeast	M	Magee Heirs swd	001	972270
Array Operating, LLC	Bougere, North	M	Campbell suk;Ashland	008	112800

Richard P. Ieyoub
Commissioner

1703#024

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