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This public document was published at a total cost of $2,100. Two hundred fifty copies of this public document were published in this monthly printing at a cost of $2,100. The total cost of all printings of this document including reprints is $2,100. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 49:981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER JBE 17-16

Supervision of the Louisiana Real Estate Appraisers Board
Regulation of Appraisal Management Companies

WHEREAS, the Louisiana Real Estate Appraisers Board ("the LREAB") protects Louisiana consumers and mortgage lenders by licensing residential appraisers and regulating the integrity of the residential appraisal process;

WHEREAS, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act established requirements for appraisal independence, including requirements that lenders and their agents pay "customary and reasonable" fees for residential mortgage appraisals, and mandating that the same state agency that regulates appraisers must require that appraisals ordered by appraisal management companies ("AMCs") be conducted pursuant to the appraisal independence standards established in Truth In Lending Act section 129E;

WHEREAS, the legislature has recognized this federal requirement in enacting La. R.S. 37:3415.15(A) of the Louisiana Appraisal Management Company Licensing and Regulation Act, requiring that: "an appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the requirements of 15 U.S.C. 1639E [TILA section 129E] and the final federal rules as provided for in the applicable provisions of 12 CFR Parts 34, 225, 226, 323, 1026, and 1222";

WHEREAS, on November 20, 2013, consistent with the authority described by La. R.S. 37:3415.21 and the procedure for rule adoption described by La. R.S. 49:953 of the Administrative Procedure Act, the LREAB published in the *Louisiana Register* final rules implementing La. R.S. 37:3415.15(A), Louisiana Administrative Code Title 46, section 31101; and

WHEREAS, questions concerning the scope of the U.S. Supreme Court decision in *N.C. State Bd. of Dental Exam'rs v. FTC*, 135 S. Ct. 1101 (2015), raise the possibility of federal antitrust law challenges to state board actions affecting prices, which may prevent the LREAB from faithfully executing mandates under the Dodd-Frank Act and Louisiana law under La. R.S. 37:3415.15.

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

SECTION 1: Prior to finalization of a settlement with or the filing of an administrative complaint against an AMC regarding compliance with the customary and reasonable fee requirements of La. R.S. 37:3415.15(A), such proposed action and the record thereof shall be submitted to the Division of Administrative Law (DAL) for approval, rejection, or modification within 30 days of the submission. Such review is to ensure fundamental fairness and that the proposed action serves Louisiana's policy of protecting the integrity of residential mortgage appraisals by requiring that fees paid by AMCs for such an appraisal are customary and reasonable. The LREAB shall enter into a contract with the DAL within ninety (90) days of this order to establish the procedure for this review.

SECTION 2: The LREAB is directed to submit to the Commissioner of Administration (or the Commissioner's designee) for approval, rejection, or modification within 30 days of the submission any proposed regulation related to AMC compliance with the customary and reasonable fee requirement of La. R.S. 37:3415.15(A), along with its rulemaking record, to ensure that such proposed regulation serves Louisiana's public policy of protecting the integrity of the residential mortgage appraisals by requiring that the fees paid by AMCs for an appraisal are to be customary and reasonable. The Commissioner (or his designee) may extend the 30-day review period upon a determination that such extension is needed.

SECTION 3: This Order is effective upon signature and shall continue in effect unless amended, terminated, or rescinded by the Governor.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana at the Capitol, in the City of Baton Rouge, on this 11th day of July, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1708#004

EXECUTIVE ORDER JBE 17-17

Flags at Half-Staff—Honorable J. Kenneth Leithman

WHEREAS, the Honorable J. Kenneth Leithman died on July 10, 2017, at the age of 86;

WHEREAS, inspired to serve his country, he was recognized as a distinguished military graduate by Loyola and served in the Pusan Perimeter as a lieutenant in the 91st M.P. Bn. in 1953;

WHEREAS, he was 33 when he first ran for elected office, winning a seat on the Jefferson Parish School Board in 1963, and dedicated much of his life to civic, community, and religious service;

WHEREAS, first elected to serve in the Louisiana House of Representatives in 1968, and then re-elected three successive terms, Representative Leithman represented District 85 and Jefferson Parish with integrity and pride;

WHEREAS, in 1972, he was elected by his colleagues to serve as the first speaker pro tempore in Louisiana's history and was re-elected in 1976;

WHEREAS, after his retirement from politics in 1984, he served as the founding head coach at the University of New Orleans for the men's and women's track programs;

WHEREAS, although he was influential in important legislation to build the second Mississippi River bridge at New Orleans and the West Bank elevated expressway, he was especially proud for his role in the passage of Act 754 of the 1977 Regular Session, which served as model legislation for other states, updating outdated education policy and allowing exceptional children to receive a better education;

WHEREAS, he was known by many for his love of sports; before being awarded the St. Sebastian Award by Loyola in 2005, he was inducted twice into the Loyola Sports Hall of Fame, in 1995 as one of Loyola's greatest sprinters and again in 2002 as a member of the school's 1951 and 1952 track teams, which won back-to-back Gulf States Conference championships; and

WHEREAS, while he will be affectionally remembered for being one of the influential Young Turks pushing for reform during his time at the legislature, he was treasured by those closest to him for his compassion, the sincerity and genuineness with which he sought to help those in need, and his loyalty.

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

SECTION 1: As an expression of respect and to honor the Honorable J. Kenneth Leithman, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Tuesday, July 18, 2017.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Tuesday, July 18, 2017.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of July, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1708#008

EXECUTIVE ORDER JBE 17-18

Small Purchase Procedures

WHEREAS, the Louisiana Procurement Code, in La. R.S. 39:1596, authorizes the governor to establish procedures for the procurement of small purchases with the caveat that "procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section;"

WHEREAS, the Louisiana Procurement Code exempts small purchases from the competitive sealed bidding requirements of the code;

WHEREAS, Louisiana businesses are a driving force in the Louisiana economy;

WHEREAS, Executive Order No. JBE 16-39, signed July 25, 2016, established the procedure for the procurement of small purchases in accordance with the statutory guidelines of the Louisiana Procurement Code; and

WHEREAS, it is necessary to update the guidelines established in Executive Order No. JBE 16-39 through the issuance of a replacement Executive Order.

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

SECTION 1: All departments, institutions, boards, commissions, budget units, and agencies of the executive branch of state government, and the officers and employees thereof, (hereafter "agency") shall observe, be guided by, and implement the specific directives on small purchase procedures set forth in this Order. This Order in no way affects or changes the purchasing authority delegated to an agency by the chief procurement officer as defined in La. R.S. 39:1556(6). No provision of this Order shall be construed as a limitation on the number of quotations to be solicited prior to making a purchase or procurement. Louisiana businesses, especially small and emerging businesses, small entrepreneurships, and veterans or service-connected disabled veteran-owned small entrepreneurships should be utilized to the greatest extent possible when soliciting prices.

SECTION 2: Unless the context clearly indicates otherwise, the words and terms used in this Order shall be defined as follows:

A. "Small purchases" means (1) any procurement of supplies or operating services not exceeding twenty-five thousand dollars ($25,000), or (2) any procurement of those items listed in Section 5 of this Order, which are exempt from the competitive sealed bidding requirements of the Louisiana Procurement Code, as provided in that Section.

B. "Certified small and emerging business" means a business certified as a small and emerging business by the Division of Small and Emerging Business Development, Department of Economic Development, in accordance with the Provisions of the Small and Emerging Business Development Program, La. R.S. 51:941 *et seq*., and included on the most recent list of certified small and emerging businesses issued by the Division of Certified Small and Emerging Business Development;

C. "Small Entrepreneurship" means a business certified as a small entrepreneurship by the Department of Economic Development, in accordance with the Provisions of the Louisiana Initiative for Small Entrepreneurships (Hudson Initiative), La. R.S. 39:2006;

D. "Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurship" means a business certified as a veteran or service-connected disabled veteran-owned small entrepreneurship by the Department of Economic Development, in accordance with the provisions of the Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships (The Veteran Initiative), La. R.S. 39:2176;

E. "Authorized dealer" means a company that is authorized by the manufacturer to sell and/or provide service for its products; and

F. "Louisiana authorized dealer" means a company that satisfies the requirements of a resident business defined

in La. R.S. 39:1556(47) and is authorized by the manufacturer to sell and/or provide service for its products.

SECTION 3: The following items are not subject to the procedures set forth in this Order:

A. Those items covered by an existing state contract;

B. Labor and Material contracts which exceed five thousand dollars ($5,000); and

C. Professional, personal, consulting and social (PPCS) service contracts.

SECTION 4: Except as otherwise provided in this Order, all small purchases shall be made in accordance with the following minimum procedures:

A. No competitive process is required for purchases which do not exceed five thousand dollars ($5,000) per single purchase transaction.

B. Price quotations shall be solicited from three (3) or more bona fide, qualified vendors for purchases exceeding five thousand dollars ($5,000), but not exceeding fifteen thousand dollars ($15,000).

1. Quotations may be made by telephone, facsimile, or other means and shall be awarded on the basis of the lowest responsive quotation. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small and emerging business, a small entrepreneurship, or a veteran or service-connected disabled veteran-owned small entrepreneurship. Agency files shall document and list all solicited vendors and each vendor's contact person, summarize quotations received, indicate the successful vendor and state the reason why any lower quotation was rejected. Agency files should also contain written confirmation of the quotation from the successful vendor.

2. When the price is determined to be reasonable, the requirement to solicit three (3) quotations may be waived when making purchases from a small and emerging business, a small entrepreneurship, or a veteran or service-connected disabled veteran-owned small entrepreneurship that is currently certified by the Department of Economic Development. Reasonable is a best value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in the file.

3. Soliciting three (3) quotations may be waived when purchasing from a business registered with the Secretary of State as domiciled in Louisiana. A business analysis must determine that in-state prices are equal or better than two other current price comparisons. Comparisons may include, but are not limited to, state contract prices, General Services Administration (GSA) prices, or similar resources. Comparison documents are to be maintained in the file.

C. Price quotations shall be solicited from five (5) or more bona fide, qualified vendors for purchases exceeding fifteen thousand ($15,000) but not exceeding twenty-five thousand dollars ($25,000).

1. Quotations may be made by facsimile or written means and shall be awarded on the basis of the lowest responsive price quotation received. Whenever possible, at least two (2) of the bona fide, qualified vendors shall be certified small and emerging businesses, small entrepreneurships, or a veteran or service-connected disabled veteran-owned small entrepreneurship. Agency files shall document and list all solicited vendors and each vendor's response, summarize quotations received, indicate the awarded quotation, and state the reason why any lower quotation was rejected.

2. The requirement to solicit certified small and emerging businesses, small entrepreneurships, or veteran or service-connected disabled veteran-owned small entrepreneurships is waived for those agencies that post on LaPAC, Louisiana's internet based system for posting vendor opportunities and award information.

3. A minimum of three (3) working days shall be allowed for receipt of quotations.

4. All written or facsimile solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable quotation. Precautionary measures shall be taken to safeguard the confidentiality of vendor responses prior to the closing time for receipt of quotations. No quotation shall be evaluated using criteria not disclosed in the solicitation.

SECTION 5: The following items are considered small purchases and may be procured in the following manner:

A. No competitive process is required for the following items:

1. Repair parts for equipment obtained from an authorized dealer. A Louisiana authorized dealer shall be used if available. This provision does not apply to the stocking of parts;

2. Equipment repairs obtained from an authorized dealer. A Louisiana authorized dealer shall be used if available;

3. Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract, obtained from an authorized dealer. A Louisiana authorized dealer shall be used if available;

4. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements;

5. Livestock procured at public auction or from an individual which has purebred certification approved by the Department of Agriculture and Forestry;

6. Purchasing or selling transactions between state budget units and other governmental agencies;

7. Publications and/or copyrighted materials purchased directly from the publisher or copyright holder;

8. Publications and/or copyrighted materials purchased by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders;

9. Public utilities and services provided by local governments;

10. Prosthetic devices, implantable devices, and devices for physical restoration which are not covered by a competitive state contract;

11. Non-customized training, including educational instructor fees, and related resources (except equipment) used to enhance the performance of state employees and good standing of state agencies, including memberships in and accreditations by professional societies and organizations;

12. Procurements for clients of blind and vocational rehabilitation programs not covered by competitive state contract which are federally funded at a rate of at least 78.7%, regulated by Title 34, Parts 361, 365, 370, and 395 of the Code of Federal Regulations, and in accordance with OMB Circular A-102;

13. Materials, supplies, exhibitor fees, and exhibit booths for conferences, seminars, and workshops, or similar events (business, educational, promotional, cultural, etc.) for participation in promotional activities which enhance economic development or further the department's mission, duties and/or functions, with the approval of the department secretary, or agency equivalent, if not covered by competitive state contract;

14. Wire, related equipment, time and material charges to accomplish repairs, adds, moves, and/or changes to telecommunications systems not exceeding two thousand five hundred dollars ($2,500);

15. Working class animals trained to perform special tasks, including but not limited to, narcotics detection, bomb detection, arson investigation, and rescue techniques;

16. Food, materials, and supplies for teaching and per course training not exceeding ten thousand dollars ($10,000) where the purchasing, preparing, and serving of food are part of the regularly prescribed course;

17. Shipping charges and associated overseas screening and broker fees between international and domestic origins and destinations not exceeding ten thousand dollars ($10,000) per transaction;

18. Renewal of termite service contracts;

19. Purchase of supplies, operating services, or equipment for Louisiana Rehabilitation Services, Traumatic Head and Spinal Cord Injury Trust Fund Program. Although competitive bidding is not required under this paragraph, whenever practicable, three (3) quotations from bona fide, qualified vendors should be obtained. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small and emerging business, a small entrepreneurship; or a veteran or service-connected disabled veteran-owned small entrepreneurship;

20. Purchasing of clothing at retail necessary to individualize clients at state developmental centers in compliance with Federal Regulations for ICF/MR facilities;

21. Health insurance for the managers of Randolph-Sheppard programs, as defined by 20 U.S.C. *§*107 *et seq*., and paid from income generated by unmanned vending locations;

22. Purchases made to resell as part of a merchandising program with the written approval on file from the secretary of the department, or agency equivalent, when it is not practical or feasible to obtain competitive price quotations;

23. Commercial Internet Service not exceeding one thousand five hundred dollars ($1,500) per subscription per year;

24. Advertising, where permitted by law, and the head of an agency or designee certifies that specific media is required to reach targeted audiences;

25. Scientific and laboratory supplies and equipment when procured by colleges and universities for laboratory or scientific research not to exceed twenty-five thousand dollars ($25,000) per transaction;

26. Publication of articles, manuscripts, etc. in professional scientific, research, or educational journals/media and/or the purchase of reprints;

27. Livestock sperm and ova;

28. Royalties and license fees for use rights to intellectual property, such as but not limited to: patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names, etc.;

29. Equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warranty, etcetera, not to exceed twenty-five thousand dollars ($25,000) per transaction;

30. Mailing list rentals or purchases; and

31. Art Exhibition rentals and/or loan agreements and associated costs of curatorial fees, transportation, and installation.

B. For the following items, telephone or facsimile price quotations shall be solicited, where feasible, from at least three (3) bona fide, qualified vendors. Whenever possible, at least one (1) of the bona fide, qualified vendors shall be a certified small and emerging business, a small entrepreneurship, or a veteran or service-connected disabled veteran-owned small entrepreneurship.

1. Farm products including, but not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods, when it is determined that market conditions are unstable and the competitive sealed bidding process is not conducive for obtaining the lowest prices;

2. Food, materials, and supplies needed for:

a. Operation of boats and/or facilities in isolated localities where only limited outlets of such supplies are available and the cost of the food, materials, and supplies do not exceed twenty-five thousand dollars ($25,000); and/or

b. Juvenile detention homes and rehabilitation facilities/homes where the number of inmates, students, or clients is unstable and unpredictable;

3. Convention and meeting facilities including security services if applicable, provided that any associated food or lodging must be in accordance with Policy & Procedure Memorandum No. 49—General Travel Regulations;

4. Gasoline and fuel purchases not exceeding twenty-five thousand dollars ($25,000);

5. Equipment for blind operated facilities not covered by competitive state contract;

6. Livestock feed commodities, including but not limited to soybean meal, cottonseed meal, and oats not exceeding twenty-five thousand dollars ($25,000);

7. Seed commodities, including but not limited to rye grass, soybean seed, corn seed, cotton seed, etc. as well as related fertilizers, herbicides, insecticides, and fungicides when not covered by competitive state contract;

8. FAA PMA approved aircraft parts and/or repairs, inspections, and modifications performed by an FAA-certified mechanic and/or at an FAA certified repair station in accordance with FAA requirements with approval by the head of the agency or head of Office of Aircraft Services, Division of Administration; and

9. Air and bus charters in accordance with PPM 49, including group travel that does not qualify for commercial rates available to individual travelers.

SECTION 6: In the absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive process or the solicitation of competitive sealed bids.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 8: Executive Order No. JBE 16-39 is hereby rescinded.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of July, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1708#18

EXECUTIVE ORDER JBE 17-19

Emergency Operations Plan

WHEREAS, the State of Louisiana must be prepared to respond and recover in a coordinated, effective and efficient manner to all the emergencies and disasters to which it is subjected;

WHEREAS, the State of Louisiana must be organized in such a way as to effectively bring available State, Federal and private resources together to support the response and recovery efforts of our local communities;

WHEREAS, it is the policy of the State of Louisiana for all homeland security and emergency preparedness functions to follow the principles outlined in the National Incident Management System, or its successor, and La. R.S. 29:722(C); and

WHEREAS, the State of Louisiana will best achieve effective coordinated emergency planning by updating the state's current emergency operations order through the replacement of Executive Order No. JBE 16-20, issued on June 1, 2016, and by the Governor's Office of Homeland Security and Emergency Preparedness updating its emergency operations plan.

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

SECTION 1:

A. The director of the Governor's Office of Homeland Security and Emergency Preparedness, State of Louisiana, (hereafter "director"), shall direct the State of Louisiana's emergency and/or disaster operations.

B. The director, or the director's designee, shall also coordinate the activities of all non-state agencies, departments, and/or organizations involved in emergency management within the state of Louisiana.

SECTION 2:

A. This Executive Order shall constitute the Louisiana Emergency Operations Plan ("Plan"), which shall be binding on all departments, commissions, boards, agencies, organizations and employees of the State of Louisiana, and on all local governments or political subdivisions of the State authorized or directed to conduct homeland security and emergency management operations.

B. The director shall supplement the provisions of the Plan by prescribing rules, regulations, and procedures. Once adopted, the supplement shall also be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

C. Any supplement or subsequent changes to the plan shall continue to follow the principles outlined in the National Incident Management System, or its successor, and also provide for the emergency operations that may be implemented should an emergency and/or disaster strike the state of Louisiana or an area within the state of Louisiana.

SECTION 3:

A. The director shall control the activation and/or implementation of the Plan and the conclusion and/or deactivation of the Plan.

B. The director shall also control the activation and deactivation of the state Emergency Operations Center (hereafter "Center").

C. The activation of the Center shall constitute the implementation of the Plan.

SECTION 4: The departments, offices, agencies, and organizations of the state of Louisiana have primary and support responsibilities for the following Emergency Support Functions (ESF) and Recovery Support Functions (RSF):

ESF/SUPPORT	ANNEX	DEPARTMENT/AGENCY	PRIMARY
ESF1	**Transportation**	Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Education	S
		Louisiana Department of Health	S
		Louisiana State Police	S
		Department of Wildlife and Fisheries	S
		Department of Children and Family Services	S
		Non-Governmental Organizations (NGO)	S
ESF 2	**Communications**	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Louisiana State Police	P
		Governor – Division of Administration	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Office of Elderly Affairs	S
		Office of the Lieutenant Governor	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Children and Family Services	S
		Department of Transportation & Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
ESF 3	**Public Works & Engineering**	Department of Transportation & Development	P
		Louisiana Coastal Protection and Restoration Authority	P
		Governor – Division of Administration	S
		Louisiana Department of Health	S
		Department of Natural Resources	S
		Department of Environmental Quality	S
		Louisiana National Guard	S
		Non-Governmental Organizations (NGO)	S
ESF 4	**Firefighting**	Department of Agriculture and Forestry	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Environmental Quality	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S

ESF/SUPPORT	ANNEX	DEPARTMENT/AGENCY	PRIMARY
ESF 5	**Emergency Management**	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Governor – Office of Indian Affairs	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Office of the Lieutenant Governor	S
		Department of Revenue	S
		Secretary of State	S
		Department of Children and Family Services	S
		Louisiana State Police	S
		Department of Transportation & Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Department of Public Safety	S
		State Fire Marshall	S
		Non-Governmental Organizations (NGO)	S
ESF 6	**Mass Care, Housing and Human Services**	Department of Children and Family Services	P
		Louisiana Workforce Commission	P
		Department of Corrections	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Housing Corporation	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		State Fire Marshal	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Louisiana Department of Health	S
		Louisiana State University System and Ag Center	S
		Department of Insurance	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S

ESF/SUPPORT	ANNEX	DEPARTMENT/AGENCY	PRIMARY
		Louisiana Board of Regents	S
		Department of Veterans Affairs	S
		Department of Revenue	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana State Police	S
		Office of the Lieutenant Governor	S
		State Treasurer	S
		Non-Governmental Organizations (NGO)	S
ESF 7	**Resources Support**	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Department of Agriculture & Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Children and Family Services	S
		Louisiana State Police	S
		Office of the Lieutenant Governor	S
		Department of Transportation & Development	S
		Department of the Treasury	S
		Non-Governmental Organizations (NGO)	S
ESF 8	**Public Health & Medical Services**	Louisiana Department of Health	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Children and Family Services	S
		Department of Environmental Quality	S
		Louisiana State University System	S
		Louisiana Board of Regents	S
		State Fire Marshal	S
		Louisiana Workforce Commission	S
		Department of Transportation & Development	S
		Department of Veterans Affairs	S
		Non-Governmental Organizations (NGO)	S
ESF 9	**Search & Rescue**	Department of Wildlife and Fisheries	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Louisiana Department of Health	S
		Department of Corrections	S
		Department of Culture, Recreation, & Tourism	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Louisiana State University Fire and Emergency Training Institute	S
		Department of Revenue - Office of Alcohol and Tobacco	S

ESF/SUPPORT	ANNEX	DEPARTMENT/AGENCY	PRIMARY
		Control	
		Office of the Lieutenant Governor	S
		Non-Governmental Organizations (NGO)	S
ESF 10	**Oil Spill, Hazardous Materials and Radiological**	Louisiana Oil Spill Coordinators Office	P
		Louisiana State Police	P
		Department of Environmental Quality	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Coastal Protection and Restoration Authority	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		State Fire Marshal	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
ESF 11	**Agriculture**	Department of Agriculture & Forestry	P
		Louisiana National Guard	S
		Department of Children and Family Services	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Louisiana Department of Health	S
		Louisiana Board of Regents	S
		Louisiana National Guard	S
		Louisiana State Police	
		Louisiana State University System	S
		Department of Transportation and Development	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Department of Wildlife and Fisheries	S
		Southern University and Ag Center	S
		Non-Governmental Organizations (NGO)	S
ESF 12	**Energy and Utilities**	Department of Natural Resources/Intrastate Natural Gas	P
		Louisiana Public Service Commission/Power	P
		Louisiana Department of Health	P
		Louisiana Department of Environmental Quality	S
		(Wastewater Utilities)	S
		Department of Agriculture & Forestry	S
		Louisiana National Guard	S
		Non-Governmental Organizations (NGO)	S
ESF 13	**Public Safety and Security**	Louisiana State Police	P
		Department of Justice	P
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Department of Transportation and Development	S

ESF/SUPPORT	ANNEX	DEPARTMENT/AGENCY	PRIMARY
		Department of Wildlife and Fisheries	S
		Louisiana National Guard	S
		Office of Juvenile Justice	S
		Office of the Lieutenant Governor	S
		Office of the State Fire Marshal	S
ESF 14	In accordance with the National Disaster Recovery Framework, ESF 14 will be organized into Recovery Support Functions (RSF).		
RSF 1	**Community Planning and Capacity Building**	Office of Community Development	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
		Louisiana Economic Development	S
		Louisiana Workforce Commission	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Department of Revenue	S
		University of Louisiana at Lafayette/NIMSAT	S
		Louisiana State University/SDMI	S
		Office of Financial Institutions	S
		Office of the Lieutenant Governor	S
		Department of Education	S
		Louisiana VOAD	S
		Department of Transportation and Development	S
RSF 2	**Economic**	Louisiana Economic Development	P
		Louisiana Workforce Commission	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Department of Revenue	S
		University of Louisiana at Lafayette/NIMSAT	S
		Louisiana State University/SDMI	S
		Office of Financial Institutions	S
		Office of the Lieutenant Governor	S
		Department of Education	S
		Department of Transportation and Development	S
		LSU/Southern Agriculture Centers	S
		Department of Environmental Quality	S
		Louisiana Sea Grant@ LSU	S
		Louisiana Housing Corporation	S
		Louisiana Department of Health	S
		Louisiana VOAD	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
RSF 3	**Health and Social Services**	Louisiana Department of Health	P
		Department of Children and Family Services	P
		Department of Education	S
		Louisiana State University Health Sciences	S
		Louisiana Board of Regents	S
		Office of Community Development	S
		Louisiana VOAD	S
		Office of the Lieutenant Governor	S
		Governor's Office of Disability Affairs	S

ESF/SUPPORT	ANNEX	DEPARTMENT/AGENCY	PRIMARY
		Governor's Office of Elderly Affairs	S
RSF 4	**Housing**	Louisiana Housing Corporation	P
		Department of Children and Family Services	S
		Louisiana Economic Development	S
		Louisiana VOAD	S
		Office of the Lieutenant Governor	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
RSF 5	**Infrastructure Systems**	Department of Transportation and Development	P
		Coastal Protection and Restoration Authority	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Office of Community Development	S
		Office of Financial Institutions	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Public Service Commission	S
		Louisiana Economic Development	S
		Department of Environmental Quality	S
		Department of Natural Resources	S
		Department of Corrections	S
		Department of Public Safety	S
		Louisiana Oil Spill Coordination Officer	S
		Office of the State Fire Marshall	S
		Louisiana Housing Corporation	S
		Louisiana Department of Health	S
		Louisiana Department of Education	S
		Louisiana National Guard	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
RSF 6	**Natural and Cultural Resources**	Louisiana Department of Wildlife and Fisheries	P
		Coastal Protection and Restoration Authority	P
		Department of Natural Resources	S
		Department of Environmental Quality	S
		Department of Culture, Recreation, and Tourism	S
		Department of Agriculture and Forestry	S
		Office of the Lieutenant Governor	S
		Office of Community Development	S
		Secretary of State	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
ESF 15	**Emergency Public Information**	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Senate and House Legislative Liaisons	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Office of the Lieutenant Governor	S
		Department of Economic Development	S
		Department of Education	S

ESF/SUPPORT	ANNEX	DEPARTMENT/AGENCY	PRIMARY
		Department of Environmental Quality	S
		State Fire Marshal	S
		Governor – Division of Administration	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Governor – Office of Financial Institutions	S
		Governor – Office of Indian Affairs	S
		Office of the Lieutenant Governor	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Department of Insurance	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Children and Family Services	S
		Secretary of State	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Non-Governmental Organizations (NGO)	S
ESF 16	**Military Support to Civilian Affairs**	Louisiana National Guard	P

SECTION 5: The head of each department, office, agency, and organization identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department's behalf during an emergency situation, and furnish the director with their names and all phone numbers. The head shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

SECTION 6: The head of each department assigned a primary ESF or RSF responsibility in Section 4 shall submit implementing procedures to the director that set forth the department's procedures for carrying out its assigned emergency support functions. The head of each department shall submit annual updates of their implementing procedures to the director.

SECTION 7: The head of each department assigned emergency support or recovery support responsibilities in Section 4 of this Order shall assist its primary department in the preparation of their procedures and/or any other documents necessary to support the Plan.

SECTION 8: The head of each department assigned a primary and/or a support responsibility in Section 4 of this Order will:

A. Staff the State Emergency Operations Center and/or Joint Field Office with personnel during training exercises and emergencies as requested by the director;

B. Maintain and operate a 24-hour response capability in the department headquarters, or in the department's designated Emergency Operations Center, when the Plan is implemented;

C. Participate in exercises of the Plan when scheduled by the director;

D. Participate in, and conduct, training essential to implementation of the department's assigned emergency service.

E. Conduct an annual internal review to update the details of their department's implementing procedures and advise the director of needed modifications of their implementing procedures; and

F. Maintain logs, records, and reporting systems required by all state and federal laws, rules, and regulations.

SECTION 9: All departments, commissions, boards, agencies and officers of the state, or any political

subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of July, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1708#20

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Agricultural Finance Authority

2016 Louisiana Farm Recovery Grant Program
(LAC 7:III.101 and Chapter 5)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:266, the Louisiana Agricultural Finance Authority declares an emergency exists and adopts by emergency process these regulations for the 2016 Louisiana Farm Recovery Grant Program.

The state's agricultural industry was impacted by two major weather events in 2016. The first event occurred in March 2016 when many areas of North Louisiana received more than 30 inches of rain in a 24-48 hour time period. While the initial rain event created significant difficulties for agricultural producers, persistent rainfall that occurred for much of April and May caused additional difficulties and backwater flooding. The LSU AgCenter estimated agricultural damage at roughly $90 million. The commodities included in this estimate were corn, soybeans, cotton, sorghum, rice, sweet potatoes, wheat, livestock, vegetables, and forage. Given the time of the year of the rains, much of the impact for most commodities was increased production costs associated with having to re-plant commodities. For livestock, the estimates included animal deaths as well as increased costs associated with relocating animals and reduced forage availability.

The second event occurred in August 2016 when many areas of South Louisiana received upwards of 34 inches of rain in a 24-48-hour time period. While the large rainfall totals were fairly limited to South Louisiana, persistent rainfall for much of August and September throughout the state delayed normal farming operations and added to the negative impact for agricultural producers. The LSU AgCenter estimated agricultural damage at roughly $277 million. The commodities included in this estimate were rice, soybeans, corn, grain sorghum, cotton, sweet potatoes, sugarcane, livestock, fruits and vegetables, ornamental horticulture, hay and pasture, and honey. For most crop commodities, the agricultural damage estimates included reduced revenue from both quality and quantity impacts as well as increased production and harvest costs. For livestock, the estimates included animal deaths as well as increased costs associated with relocating animals and reduced forage availability. Finally, the estimate also included estimates of infrastructure damage to agricultural operations.

Money has become available to provide grants to producers impacted by the floods that have shown a commitment to remain in the agricultural industry and can prove losses based on the program's design. Funds can be used by eligible producers to assist with paying unmet expenses necessary for a 2017 crop, a need resulting from storm-related uninsured and non-covered losses. These funds will allow producers to retain or hire employees and/or recover their farming operations. Delaying the distribution of this money until permanent rules and regulations can be promulgated will cause the money to be unavailable for the 2017 crop year. Failure to utilize this money quickly will disrupt the livelihood of agricultural producers and the related businesses that depend on them. Failure to timely utilize the money will substantially eliminate or reduce the amount of crops, livestock, and other agricultural products, planted, produced, harvested or processed in 2017; thereby further increasing the losses to agricultural producers and the economy of this state.

The losses caused by the two floods, the effect these losses have on the ability of agricultural producers to obtain financing, the severe shortage of capital and credit available for investment in agriculture, and the potential loss of more of this State's agricultural producers and agricultural revenues creates an imminent peril to the public health, safety, and welfare of the citizens of this state; thereby requiring the promulgation of this Emergency Rule.

This Emergency Rule become effective July 12, 2017, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7
AGRICULTURE AND ANIMALS
Part III. Agricultural Finance

Chapter 1. General Provisions

§101. Definitions

A. - C. …

* * *

D. The following words and terms are defined for the purposes of the 2016 Louisiana Farm Recovery Grant Program.

Expected Gross Crop Revenue (for 2016)—the level of revenue that would have been expected to have been generated in 2016 under normal weather conditions and is calculated using the applicant's response to the number of acres harvested in 2016, a 5-year parish average for crop yields and the estimated average market price in 2016.

Gross Crop Revenue (for 2016)—calculated by multiplying total acres harvested times the total average yield times an estimated average selling price. The estimated average selling price is calculated by dividing the applicant's share of crop revenue by the amount of the crop marketed by the applicant.

Increases in Either Harvest or Production Costs—

a. the costs of having to replant crops that were ruined due to high levels of rainfall and flooding;

b. costs associated with harvesting crops under excessively wet field conditions causing reduced harvest speeds and efficiency; and

c. costs associated with increased tillage and land preparation due to damage caused to land resulting from either having to harvest under excessively wet conditions or resulting from the impact of pounding rainfall and flooding.

Loss of Stored Hay—calculated by using the number of bales destroyed and then converting them into tons of hay assuming an average bale weight of 1,200 pounds. A market value for hay lost due to flooding is then calculated using the average 2016 market price as defined by the *2016 Louisiana Summary* publication.

Lost or Dead Cattle—cattle that were lost or killed and calculated on a value per head by for the two classes of cattle using average 2016 market prices obtained from the *2016 Louisiana Summary* publication and assuming an average weight for calves of 500 pounds and breeding animals of 1,200 pounds.

Net Estimated Losses—the amount of losses eligible for assistance under the 2016 Louisiana Farm Recovery Grant Program calculated by the difference between the total estimated losses and any assistance received by the applicant from other sources.

Producer—one who engages, as an occupation, in farming operations as a distinct activity for the purpose of producing a farm crop and assumes the production and market risks associated with the agricultural production of those crops. A corporation or farmer's cooperative may be a "producer" if engaged in actual farming of the nature and extent there indicated.

Reductions in Grazing Availability—the economic loss associated with pastures that were flooded making grazing unavailable to cattle which is calculated using a hay equivalent methodology. The methodology assumes the economic loss is equal to the value of the amount of hay that would be needed to compensate for the lost grazing. The methodology assumes that each mature cow weighs 1,200 pounds and eats 2 percent of her body weight per day. With this information, the total amount of hay needed for the number of days grazing was unavailable is calculated. The value of that hay is then estimated using the average 2016 market price for hay as defined by the *2016 Louisiana Summary* publication.

Total Estimated Losses (suffered by the farming operation)—a summation of the estimated economic losses associated with each crop produced and any cattle related losses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Louisiana Agricultural Finance Authority, LR 10:866 (November 1984), amended by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:464 (March 2010), LR 43:

Chapter 5. 2016 Louisiana Farm Recovery Grant Program

§501. 2016 Louisiana Farm Recovery Grant Program; Establishment; Purpose; Limitations

A. The 2016 Louisiana Farm Recovery Grant Program is hereby established.

B. The 2016 Louisiana Farm Recovery Grant Program provides a 100-percent grant to agricultural producers for working capital expenses related to the 2017 planting year for the purpose of aiding in the recovery from the 2016 floods.

C. The limits on the grants from the 2016 Louisiana Farm Recovery Grant Program are as follows.

1. Agricultural producers may receive a maximum grant of $100,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 43:

§503. Eligibility of Applicant

A. An agricultural producer experiencing a 2016 flood related loss shall be eligible to receive money from the 2016 Louisiana Farm Recovery Grant Program upon meeting all of the following requirements.

1. The farm upon which a loss occurred must be located in one of the following parishes: Acadia, Allen, Ascension, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Claiborne, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, Lafayette, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Point Coupee, Rapides, Red River, Richland, Sabine, St. Helena, St. James, St. Landry, St. Martin, St. Tammany, Tangipahoa, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana and Winn.

2. Active agricultural operations must have been ongoing before March 1, 2016 and continue to be ongoing in 2017.

3. The applicant must have annual gross farm revenue of $25,000 in 2014, 2015 or 2016.

4. The applicant must have suffered a minimum storm related loss of $10,000 as determined by the crop loss calculator.

5. The applicant must have grown one of the following crops in 2016: cattle, corn, cotton, crawfish, grain sorghum, hay, rice, soybeans, strawberries, sugarcane, sweet potatoes and wheat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 43:

§505 Application Procedure and Forms

A. The application period shall be publicly announced or published in a manner that fairly puts agricultural producers on notice of the 2016 Louisiana Farm Recovery Grant Program and the start and end of the application period.

B. Only application forms prepared by LAFA for this purpose may be used.

C. Each applicant for a grant shall submit all of the following documents to LAFA:

1. the completed application form signed by the agricultural producer, if a sole proprietorship. If the agricultural producer is not a sole proprietorship then the application form must be signed by all owners;

2. proof of identity of the signer of the application. A government-issued photo identification must be presented;

3. proof of address of the farm. One or more of the following may be used as proof of address:

a. a copy of utility bill;

b. Louisiana tax return from the previous year;

c. lease agreement; or

d. a USDA Farm Service Administration (FSA) certification;

4. proof of ownership of the farm. Tax returns with appropriate schedules must be presented;

5. proof of national objective. One or more of the following may be used as proof of employees:

a. federal Form 941;
b. Louisiana unemployment tax records; or
c. internal payroll register;

6. proof of revenue. Tax returns with appropriate schedules must be presented;

7. proof of crop loss. A completed crop loss calculator must be presented;

8. proof of harvesting an eligible crop in 2016. Tax returns with appropriate schedules must be presented;

9. proof of planting or harvesting an eligible crop in 2017. Paid receipts, invoices, copies of checks or other evidence must be presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 43:

§507. Disbursement of Funds

A. After the LAFA staff has approved an application, the proceeds of the grant shall be disbursed by LAFA's staff upon the signing of the grant documents by the applicant and LDAF's director of grant recovery programs.

B. If the total amount of proceeds to be disbursed under the 2016 Louisiana Farm Recovery Grant Program exceeds the amount of available money then the amount received by each approved applicant shall be reduced on a pro-rata basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 43:

§509. Use of Grant Proceeds

A. Grant proceeds may be used to pay current year working capital expenses that are related to the preparation, planting, management and harvesting the current year crop including, but limited to feed, bait, seed, fertilizer, fuel, chemicals, herbicides, crawfish traps, office supplies, insurance, utilities, labor/payroll, veterinarian services and supplies, custom harvester, custom aerial applicator, and written land leases for crawfish producers.

B. Grant proceeds may not be used for any of the following:

1. acquisition of buildings or land;
2. new construction or reconstruction;
3. repayment or refinancing loans;
4. payments of tax arrearages, government fines or penalties;
5. political or religious activities;
6. buying out any stockholder or equity holder in a business;
7. buying out or reimbursing any family member;
8. investing in instruments or investments for the sole purpose of a return on investment;
9. a loss or expense for which insurance benefits has been or will be paid or financial assistance that has been or will be provided from federal, state or any other source;
10. purchasing or repairing of equipment;
11. placing new land into production.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 43:

Mike Strain, DVM
Commissioner

1708#003

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

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 Department of Agriculture and Forestry is renewing 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 Emergency Rule was initially published at LR 43:498 and LR 43:623. 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 million 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 and labeling requirements 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 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 Emergency Rule shall have the force and effect of law July 21, 2017, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until a permanent Rule is promulgated in accordance with law.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantines
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, Bergera* (=*Murraya*) *koenigii, Calodendrum capense, Choisya ternata, Choisya arizonica, X Citroncirus webberi, Citropsis articulata, Citropsis gilletiana, 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*.

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 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 that 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 a 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 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

1708#006

DECLARATION OF EMERGENCY

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

Turtles (LAC 7:XXI.1909)

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

published at LR 42:512 and was last renewed at LR 43:624 (April 20, 2017).

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

This Emergency Rule shall have the force and effect of law on July 25, 2017 and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry, or until a permanent Rule is promulgated in accordance with law.

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

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

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

2. - 6. …

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

8. - 9. …

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 43:

Mike Strain, DVM
Commissioner

1708#007

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
Office of Public Health Newborn Screening Payments
(LAC 50:V.115)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.115 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 reimbursement through the Medical Assistance Program to the Office of Public Health (OPH) for laboratory services rendered in an acute care inpatient hospital setting in compliance with the requirements of Act 840 of the 1997 Regular Session of the Louisiana Legislature.

The department now proposes to amend the provisions governing inpatient hospital services in order to establish Medicaid reimbursement to OPH for newborn screenings provided in an acute care inpatient hospital setting, and to ensure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code*. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to inpatient hospital services. It is estimated that implementation of this Emergency Rule will have no programmatic costs to the Medicaid Program for fiscal year 2017-2018.

Effective August 5, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing inpatient hospital services to establish reimbursement to OPH for newborn screenings provided in an acute care inpatient hospital setting.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals Services
Chapter 1. General Provisions
§115. Office of Public Health Newborn Screenings

A. The Department of Health, Bureau of Health Services Financing shall provide reimbursement to the Office of Public Health (OPH) through the Medical Assistance Program for newborn screenings performed by OPH on specimens taken from children in acute care hospital settings.

B. Reimbursement

1. Effective for dates of service on or after August 5, 2017, claims submitted by OPH to the Medicaid Program for the provision of inpatient hospital newborn screenings shall be reimbursed outside of the acute hospital per diem rate for the inpatient stay.

a. The hospital shall not include any costs related to these inpatient newborn screenings in its Medicaid cost report(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health, 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

1708#015

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Professional Services Program
Enhanced Federal Medical Assistance
Percentage Rate for Preventive Services
(LAC 50:IX.15101)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:IX.15101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 4106(b) of the Patient Protection and Affordable Care Act (P.L. No. 111-148), hereafter referred to as the Affordable Care Act (ACA), established a one percentage point increase in the federal medical assistance percentage (FMAP) rate applied to Medicaid covered expenditures for specified adult vaccines and clinical preventive services provided on a fee-for-service or managed care basis to states that provide coverage without cost sharing. In compliance with the requirements of the ACA, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement for professional services in the Medical Assistance Program in order to establish provisions governing the enhanced FMAP for the coverage of those specified preventive services (*Louisiana Register*, Volume 43, Number 5).

This Emergency Rule is being promulgated in order to continue the provisions of the May 15, 2017 Emergency Rule. This action is being taken to secure enhanced federal funding.

Effective September 13, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement for professional services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter A. General Provisions
§15101. Enhanced Federal Medical Assistance Percentage Rate for Preventive Services

A. Effective for dates of service on or after May 15, 2017, the federal medical assistance percentage (FMAP) rate received by the department for specified adult vaccines and clinical preventive services shall increase one percentage point of the rate on file as of May 14, 2017.

1. Services covered by this increase are those assigned a grade of A or B by the United States Preventive Services Task Force (USPSTF) and approved vaccines and their administration as recommended by the Advisory Committee on Immunization Practices (ACIP).

2. The increased FMAP rate applies to these qualifying services whether the services are provided on a fee-for-service (FFS) or managed care basis.

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 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

1708#044

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
State-Owned or Operated Professional Services Practices
(LAC 50:IX.15110 and 15113)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:IX.15110 and amends §15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing provides reimbursement under the Medicaid State

Plan to physicians and other professional services practitioners for services rendered to Medicaid covered recipients.

The department promulgated an Emergency Rule which amended the provisions governing the Professional Services Program in order to revise the reimbursement methodology for services rendered by physicians and other professional services practitioners employed by, or under contract to provide services in affiliation with a state-owned or operated entity (*Louisiana Register*, Volume 43, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 1, 2017 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program to ensure recipient access to services.

Effective August 24, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Professional Services Program to revise the payment methodology for supplemental payments to physicians and other professional service practitioners affiliated with a state owned or operated entity.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter A. General Provisions
§15110. State-Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after May 1, 2017, in order to qualify to receive payments for services rendered to Medicaid recipients under these provisions, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by, or under contract to provide services in affiliation with, a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:

a. has been designated by the department as an essential provider. Essential providers include:

i. LSU School of Medicine—New Orleans;
ii. LSU School of Medicine—Shreveport; and
iii. LSU state-operated hospitals (Lallie Kemp Regional Medical Center and Villa Feliciana Geriatric Hospital.

B. Payment Methodology. Effective for dates of service on or after May, 1, 2017, payments shall be made in the amount of the billed charges for services rendered by physicians and other eligible professional service practitioners who qualify under the provisions of §15110.A.

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

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

Subchapter B. Physician Services
§15113. Reimbursement Methodology

A. - M. ...

N. Effective for dates of service on or after May 1, 2017, physicians, who qualify under the provisions of §15110 for services rendered in affiliation with a state-owned or operated entity that has been designated as an essential provider, shall receive payment in the amount of the billed charges for qualifying services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 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. 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

1708#045

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Fall Inshore Shrimp Season Opening Dates

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2017 fall shrimp season in Louisiana state waters to open statewide on August 18, 2017 at 6 a.m.

The commission also hereby grants authority to the secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and; to close any portion of Louisiana's inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. The secretary is further granted the authority to open any area, or re-open any previously closed area, and to open and close special shrimp seasons in any portion of state waters.

The commission also hereby grants authority to the secretary of the Department of Wildlife and Fisheries to close to shrimping all or parts of state outside waters where

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

Chad J. Courville
Chairman

1708#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spring Inshore Shrimp Season Closure
in Remainder of State Inside Waters

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 4, 2017 which authorized the secretary of the Department of Wildlife and Fisheries to close the 2017 spring inshore shrimp season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the secretary hereby declares:

The 2017 spring inshore shrimp season will close on July 24, 2017 at 6 p.m. in Lake Pontchartrain, Chef Pass, Rigolets Pass, Lake Borgne and the Louisiana portion of Mississippi Sound. With this closure all state inside waters will be closed except for the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)(2). All state outside waters seaward of the inside/outside shrimp line, as described in R.S. 56:495 will remain open to shrimping until further notice.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within these waters have rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Jack Montoucet
Secretary

1708#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spring Inshore Shrimp Season Closure
in Shrimp Management Zones 1 and 3

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 4, 2017 which authorized the secretary of the Department of Wildlife and Fisheries to close the 2017 spring inshore shrimp season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the secretary hereby declares:

The 2017 spring inshore shrimp season will close on July 14, 2017 at 6 p.m. in state inside waters from the Mississippi/Louisiana state line westward to the eastern shore of South Pass of the Mississippi River and from the western shore of Freshwater Bayou westward to the Louisiana/Texas state line except for the following waters: Lake Pontchartrain, Chef Menteur and Rigolets Passes, Lake Borgne, the Louisiana portion of Mississippi Sound, and the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)2. All state outside waters seaward of the inside/outside shrimp line, as described in R.S. 56:495 will remain open to shrimping until further notice.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within these waters have rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Jack Montoucet
Secretary

1708#002

Rules

RULE

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

Eggs (LAC 7:V.919 and 923)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in R.S. 3:4271, the Department of Agriculture and Forestry ("department") and the Louisiana Egg Commission have amended LAC 7:V.919 and 923. The amendment to §919 provides that a store may not repackage eggs unless it has an egg consolidation plan approved by USDA and the department. The amendment to §923 provides that for the sale of eggs and egg products produced out-of-state, the last dealer/wholesaler/processor to handle the eggs or egg products before they enter the state shall be responsible for paying all fees.

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing
Chapter 9. Market Commission—Poultry and Eggs
Subchapter B. Egg Grading and Marketing
§919. Sale or Offering for Sale of Eggs within Louisiana

A. No person, firm, or corporation shall sell, traffic in, or deliver to the retail or consuming trade, any eggs unfit for human consumption or any eggs that do not meet Grade B requirements. A store may not repackage eggs unless it has an egg consolidation plan approved by USDA and LDAF.

B. - G.2. …

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:293 (March 1997), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Egg Commission, LR 42:219 (February 2016), LR 43:1517 (August 2017).

§923. Inspections; Fees; Failure to Meet Standards

A. - G. …

H. Dealers-wholesalers shall be required to furnish evidence of origin by invoice on eggs which they handle. Dealers/wholesalers shall report volume of sales monthly on forms furnished by the department. On sale of eggs and egg products produced out-of-state, the last dealer/wholesaler/processor that handles the eggs or egg products before they enter the state shall be responsible for paying all fees. In-state producers/packers/processors are responsible for all fees of eggs or egg products they have sold in this state. Fees shall be paid not later than the fifteenth of the following month.

I. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:294 (March 1997), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Egg Commission, LR 43:1517 (August 2017).

Mike Strain, DVM
Commissioner

1708#042

RULE

Department of Agriculture and Forestry
Office of Forestry

Indian Creek Recreation Area (LAC 7:XXXIX.Chapter 5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in accordance with Act 591 of 1970 and R.S. 3:4402, the Department of Agriculture and Forestry ("department"), through the Office of Forestry, has amended and enacted LAC 7:XXXIX.525-535, 539-541 and 545-547 relative to the use of the Indian Creek Recreation Area. Section 525 clarifies that eviction from the site may be temporary or permanent. Section 527 provides that two vehicle mirror hangtags will be provide to each campsite to assist employees in identifying paid guests. The Rule also addresses quiet hours. Section 527.B permits a camper to occupy a site for 30 days or more during winter months (November 1-February 28), subject to availability. Section 531 clarifies that the pavilion rental rate does not include the day-use fee. Section 533.A.1 and 2 have been combined to create a single rule regarding boating and Subsection B regarding pavilion rentals has been repealed and is being relocated to §545. Section 535 adds a 50 percent discount of day-use fees for veterans and an exemption from the day-use fee for disabled veterans. Section 539 renames the categories of campsites and removes the category "full hook up." The fees in §539 remain the same. Section 541 remove the service fee charged on all reservations and set forth a cancellation policy for monthly reservations. Section 545 is new and enacts a pavilion rental policy. Section 547 is also new and allows the park manager to impose mandatory minimum stays during peak usage times.

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry
Chapter 5. Indian Creek Recreation Area
§525. Enforcement

A. Persons violating these rules and regulations are subject to administrative sanctions to include fines for each violation, eviction from the site (temporary or permanent), and/or restitution to the department for damages incurred. If a person is delinquent in paying for damage incurred, the

department reserves the right to refuse privileges to that person pending receipt of such restitution.

B. No person shall enter a site:

1. when the site is closed; or

2. without proper registration.

C. Site visitors may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number and a driver's license number.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016), amended LR 43:1517 (August 2017).

§527. Overnight Use

A. - A.4. …

5. Pass codes on entrance gates are issued for the personal use of the permittee, who is prohibited from allowing others to use the pass code, or otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area. Each campsite will be issued two temporary vehicle mirror hangtags to assist employees in identifying paid guests. The first vehicle is the RV or truck pulling the camper. The second vehicle is defined as a vehicle being towed behind the RV or driven by another occupant who is camping on the same campsite. Additional vehicles will be allowed by way of a general admission day-use entrance fee (see §531).

6. ...

7. Overnight users must maintain a reasonably quiet facility between the hours of 10 p.m. and 7 a.m. No generators are allowed to be operational between the aforementioned hours.

8. - 12. …

B. Camping

1. With the exception of a campground host and campsites reserved at the 30-day off-season rate, overnight camping is limited to 14 consecutive days. After 14 consecutive days of occupancy at a site, the visitor must vacate the site for 7 consecutive days before occupancy may be resumed.

2. During winter rental (November 1-February 28), a camper may occupy a site for 30 or more days at a time, subject to availability. No campsite may be unattended for longer than a 48-hour continuous period under any permit agreement.

3. Indian Creek Recreation Area is intended for tents and recreational vehicles only. The term "recreational vehicles" includes but is not limited to camper trailers, travel trailers and fifth wheel trailers but does not include ATVs.

4. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

5. The following are to be used as general guidelines to define a camping unit by the site manager or his designee:

a. one camper with additional vehicle and one large tent or two small tents;

b. two vehicles and tent combinations not to exceed three tents.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016), amended LR 43:1518 (August 2017).

§531. Fees; Day-Use Fees

A. General Admission Day-Use Entrance Fees

1. The day-use fee at Indian Creek Recreational Area is $7 per vehicle. Pavilion rental does not include day-use fee.

2. …

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1518 (August 2017).

§533. Fees; Boating

A. Canoes, kayaks, flat bottom boats, paddleboats or other watercraft may be rented for $30 per vessel per day. Rental of any watercraft includes paddles and two lifejackets. Additional life jackets are available for rental at fee of $1 per day.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1518 (August 2017).

§535. Fees and Exemptions; Exemptions/Discounts

A. Veterans. A veteran of the Armed Forces of the United States who shows proof of same and any person(s) accompanying him in a single, private, non-commercial vehicle, may receive a 10 percent discount on camp site rental fees. There is no discount on the winter rates or other rental rates (kayaks, boats, etc.). Veterans will also receive a 50 percent discount off day-use fees. Proper picture identification is required.

B. Disabled Veterans. A special veteran entrance permit allows any disabled Louisiana resident who is a veteran of the armed forces of the United States, and any person(s) accompanying him in a single, private, non-commercial vehicle exemption from the day-use entrance fee. Applications for a veteran permit may be made to the Louisiana Department of Veterans' Affairs service office serving the parish in which the applicant resides. Proper picture identification is required.

C. School Groups. Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

D. Senior Citizens. Any person age 50 or older may receive a 10 percent discount on camp site rental fees. There is no discount on the general entrance fee, winter rates or other rental rates (kayaks, boats, etc.).

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1518 (August 2017).

§539. Fees and Exemptions; Overnight Use

A. Camping

1. Standard Campsite. A standard campsite rents for $18 per night during the winter season (November 1-February 28) and $22 per night during the summer season (March 1-October 31). A premium waterfront campsite rents for $22 per night during the winter season (November 1-February 28) and $28 per night during the summer season (March 1-October 31).

2. Pull-Thru Campsite. A pull-thru campsite consists of two sites.

a. Pull-Thru Non-Water Front Single Campsite (Standard Single Pull-Thru). A pull-thru single non-water front campsite rents for $18 per night during the winter season (November 1-February 28) and $22 per night during the summer season (March 1-October 31).

b. Pull-Thru Non-Water-Front Double Campsite (Standard Single Pull-Thru). A pull-thru non-water front double campsite rented for use by a single tenant camper rents for $32 per night during the winter season (November 1-February 28) and $42 per night during the summer season (March 1-October 31).

c. Pull-Thru Water-Front Single Campsite (Premium Single Pull-Thru). A pull-thru waterfront single campsite rented for use by a single tenant camper rents for $22 per night during the winter season (November 1-February 28) and $28 per night during the summer season (March 1-October 31).

d. Pull-Thru Water-Front Double Campsite (Ultra Pull-Thru). A pull-thru waterfront double campsite rented for use by a single tenant camper rents for $42 per night during the winter season (November 1-February 28) and $54 per night during the summer season (March 1-October 31).

3. Primitive Area. A primitive area campsite rents for $14 per tent per day.

B. - F. …

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1518 (August 2017).

§541. Reservation Policy

A. General Provisions

1. Reservations may be made for Indian Creek Recreational Area for an allotted number of campsites as determined by the site manager.

2. - 4. …

5. Cancellation of a monthly reservation initiated by the site user and made up to 48 hours prior to the date of arrival will incur a $50 charge. No cancellations will be accepted 48 hours prior to the date of arrival. A transfer of reservation dates will be treated as a cancellation and a new reservation, and is therefore subject to the cancellation policy. There is no charge to transfer a reservation from one site to a different site on the same dates. Requests for waivers of the cancellation fee must be made in writing to the commissioner of agriculture and forestry or his designee and will be granted only in extreme circumstances.

6. In the event reservations must be canceled by LDAF staff (e.g., for maintenance or emergency reasons) the rental fee will be refunded in full.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1519 (August 2018).

§545. Pavilion Use; Rate; Restrictions

A. Pavilion Rental

1. Exclusive use of the pavilion can only be made by executing a rental agreement and payment of a rental fee.

2. The pavilion rental rate is $100 per day for the large pavilion and $30 per day for the small pavilion. Pavilion rental does not include day-use fee.

3. Full payment of the $100 rental fee for the large pavilion and $30 rental fee for the small pavilion is due at time of reservation. Prior to, or on the date of the reservation, a $50 cleaning deposit is required for the large pavilion and $15 cleaning deposit for the small pavilion. The party renting the pavilion is responsible for cleanup after the event and ensuring the pavilion is not damaged. The cleaning deposit will be refunded to the customer either electronically or by U.S. mail within 10 days of the event if sufficiently clean.

4. The pavilion may only be used between the hours of 8 a.m. and 7 p.m.

5. No inflatable jumpers/slides using water will be permitted for use in the park. No inflatable or plastic swimming pools will be allowed in the park.

6. All general park rules apply to the pavilion rental.

7. Any damage or destruction of property will be repaired or replaced at the expense of the renter.

8. Cancellation of a reservation initiated by the renter made up to 48 hours prior to the date of rental will incur a $35 charge for the large pavilion, and a $15 charge for the small pavilion. No cancellations will be accepted 48 hours prior to the date of arrival; therefore, the entire deposit will be retained by the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 43:1519 (August 2017).

§547. Mandatory Minimum Stays

A. The park manager, at his discretion, may impose mandatory minimum stays during peak usage times.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 43:1519 (August 2017).

Mike Strain, DVM
Commissioner

1708#043

RULE

Department of Culture, Recreation and Tourism
Office of the State Museum

Public Access (LAC 25:III.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and with the authority granted in R.S. 25:341 et seq. and R.S. 36:204(A)(3), the Office of the State Museum has amended Chapter 1 of LAC 25:III.

Amending Chapter 1 adds a definitions section and adjusts terminology in accordance therewith; rearranges and clarifies provisions pertaining to public access and event rentals; allows for event rentals without a three-hour minimum; amends charges for event rentals, museum

admission, and special programs; and authorizes discounts, annual passes, processing fees, and promotional rates.

Title 25
CULTURAL RESOURCES
Part III. Office of the State Museum
Chapter 1. Public Access
§101. Definitions

A. As used in this Part, unless the content clearly provides otherwise, the following terms shall be defined as follows.

Assistant Secretary—the assistant secretary of the Office of the State Museum.

Board—the board of directors of the Louisiana State Museum.

DCRT or *Department*—the Department of Culture, Recreation and Tourism.

Demonstration Collection—objects are considered to be expendable and may be used by staff and patrons in the interpretive programs of the OSM.

Louisiana State Museum—a statewide complex of facilities under the management and supervision of the office of the state museum, an agency in the Department of Culture, Recreation and Tourism.

Museum—a single building that is open to the general public within the Louisiana State Museum.

OSM or *Agency*—Office of the State Museum.

Permanent Collection—objects relate directly to the mission of OSM and support its primary goals. These objects are subject to the highest levels of documentation and care.

Study Collection—objects supplement the permanent collection and are maintained in order to support the research and educational functions of the OSM. Included is material that is duplicative or of lesser quality, significance, interest or use than the permanent collection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:341 et seq., and R.S. 36:204(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the State Museum, LR 43:1520 (August 2017).

§103. Hours of Operation [Formerly §101]

A. Each museum will be open to the public in accordance with a published schedule established by the agency.

B. The agency is authorized to close museums or sections of museums as necessary.

C. As designated by the agency, there are buildings and sections of buildings under the jurisdiction of the agency that are not open to the general public due to the nature of the building or the nature of the use (e.g., security, collections management and storage, residential use, utilities, office, commercial tenants, etc.).

D. The agency is authorized to open museums on official state holidays provided that affected employees are compensated in accordance with applicable laws and Civil Service rules.

E. Due to staffing and other operational concerns, the agency may turn away a group that has not reserved its visit in advance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342-348.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the State Museum, LR 11:684 (July 1985), amended LR 43:1520 (August 2017).

§105. Admission Fees

A. Minimum Admission Fees

Building	Location	Standard	Student (7-17), Senior (62+), Active Military	6 Years of Age and Under
Cabildo with Arsenal	New Orleans	$6	$5	Free
Presbytere	New Orleans	$6	$5	Free
Old U.S. Mint	New Orleans	$6	$5	Free
Capitol Park Museum	Baton Rouge	$6	$5	Free
1850 House	New Orleans	$3	$2	Free
Madame John's Legacy	New Orleans	$3	$2	Free
Wedell-Williams Aviation and Cypress Sawmill Museum	Patterson	$3	$2	Free
Louisiana Sports Hall of Fame and Northwest Louisiana History Museum	Natchitoches	$3	$2	Free
E.D. White Historic House	Thibodaux	Free	Free	Free

B. Minimum admission fees do not include applicable taxes, processing fees, and charges for special exhibitions, programs, guided tours, and events.

C. Discounts and Promotional Rates

1. Groups. A 20 percent discount is available for groups of 15 or more visitors who are old enough to require an admission fee and who purchase the admission or arrange the visit with agency in advance.

2. Student Groups. Student groups are admitted to museums free of charge, if:

a. the student group has reserved its visit at least 48 hours in advance of its arrival;

b. the student group is affiliated with a recognized public or private school system or recognized home school organization; and

c. the student group includes at least 1 chaperone per every 10 students as a minimum. Chaperones will be admitted free, up to 1 per every 5 students. Additional chaperones may be required to pay the admission fee.

3. Annual Pass

a. An annual pass, which entitles the bearer to admission to all museums that are open to the public, is $40 per year.

b. The annual pass is valid for one year from the date of issuance.

c. The annual pass is not transferable.

4. Special Promotions

a. The OSM may, through the assistant secretary, enter into an agreement or promotion that discounts or waives admission fees on a defined basis for the purpose of promoting visitation, public support and mission-related activities of the department.

b. A special promotion may include, but is not limited to:

i. free admission for museum support organizations;

ii. promotional coupons such as buy-one-get-one free;

iii. discounts for recurring group visits;

iv. free admission with other museum activity attendance;

v. promotional free days in conjunction with special events, anniversaries, festivals and the like.

c. A special promotion must promote the mission of the OSM or an affiliated entity and must not conflict with any applicable law or regulation.

d. Special promotions will be tracked and evaluated for achievement of the intended purpose. Special promotions will be reviewed and reauthorized annually.

5. Combination Admission. The OSM may agree to participate in programs that entitle a visitor to discounted admission to multiple museums or other attractions, including those that are not a part of the Louisiana State Museum.

D. All fees provided in this section may be adjusted to provide a single, tax and fee-inclusive price for the visitor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:341 et seq., and R.S. 36:204(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Museum, LR 12:89 (February 1986), amended LR 13:82 (February 1987), LR 20:784 (July 1994), LR 24:2235 (December 1998), LR 30:1057 (May 2005), LR 43:1520 (August 2017).

§107. Building Use Policy for Events [Formerly §103]

A. The Louisiana State Museum is an historical, cultural, and educational institution whose primary purpose shall be to collect, preserve, and present, as an educational resource, objects of art, documents, artifacts, and the like that reflect the history, art, and culture of Louisiana.

B. Use of the Louisiana State Museum facilities for functions and events may be permitted only insofar as such use does not compromise or put at risk the mission, accreditation, or integrity of the Louisiana State Museum and its collections and such use comports with applicable law and the regulations set forth herein.

C. Certain buildings and spaces within buildings in the Louisiana State Museum may be designated as being unavailable for functions and events.

D. The agency is authorized to determine whether the proposed use, user, and museum or space within a museum meet the eligibility criteria for the agency's building rental policy for events and whether the request complies with the procedures and requirements set forth in this chapter and applicable laws.

E. Procedure

1. Eligible Users. Requests for the use of a Louisiana State Museum building or space thereof for an event or function will be considered from:

a. nonprofit organizations with purposes similar to the educational and historical museum purposes of the agency;

b. governmental agencies for governmental purposes or events;

c. groups, persons, or companies whose proposed use is, in the opinion of the assistant secretary, not in conflict with the purposes of the agency.

2. Eligible Use. Requests will be considered from eligible organizations, agencies, groups, persons, and companies only for use that does not compromise or put at risk the mission, accreditation, or integrity of the Louisiana State Museum and its collections. Such use generally falls into one of two types of events or functions:

a. receptions and sit-down meals, which must occur when the museum is closed to the public; or

b. business meetings and lectures, which may occur when the museum is open to the public.

3. Capacity. Requests shall state the reasonably anticipated attendance at the event, which attendance shall not exceed the maximum building capacity of the museum as established by the fire marshal.

4. All requests must be submitted in writing (at least 30 days prior to the date of the event is preferred) to allow for proper planning, coordination, and completion of all required paperwork, including but not limited to the required written event agreement.

5. The agency may deny an application if:

a. the applicant does not meet the eligibility criteria;

b. the applicant has requested to use a museum or space within a museum that is unavailable for use as a venue for an event or function;

c. the proposed use exceeds the capacity of the museum or space within the museum;

d. the proposed use may put the museum, its collections, or accreditation at risk;

e. the agency does not have sufficient staff or resources to support the proposed use;

f. the application is incomplete or is not submitted timely;

g. the proposed use will interfere with the exhibitions or other programs or activities of the museum;

h. the event agreement is not executed timely; or

i. the applicant fails to remit the deposit or other amounts when due and payable, fails to present certificates of insurance if required, or otherwise fails to comply with the terms of the event agreement.

F. Terms of Use—Event Agreement

1. The terms of use for the event will be established fully in a written agreement between the agency and the host or a legally authorized representative of the host. The event agreement should be completed and executed by both parties at least 30 days prior to the date of the use.

2. The event agreement is specific to the building and the approved use. Terms shall include, but are not limited to:

a. the agency will not remove collections or exhibition items to accommodate the event;

b. smoking and open flames are prohibited;

c. the host is responsible for choosing and making its own arrangements with caterers and vendors. However, the agency reserves the right to reject caterers and vendors that do not comply with the agency's instructions;

d. the host is responsible for its own parking arrangements staff, contractors, or guests;

e. the host is responsible for arrangements for tables, chairs, audio-visual and other equipment, which must be approved in advance by the agency. At some museums, such equipment may be available at an additional charge;

f. the host shall designate an authorized representative to be present for the entire duration of the use. The representative must have decision-making authority to act on behalf of the host. The representative will be responsible for all coordination with the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:341 et seq., and R.S. 36:204(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museums, LR 11:683 (July 1985), amended LR 13:83 (February 1987), LR 16:295 (April 1990), LR 20:783 (July 1994), LR 24:2233 (December 1998), LR 31:1055 (May 2005), LR 43:1521 (August 2017).

§109. Building Use Agreement and Charges for Events [Formerly §103]

A. Event Rental Fees and Costs. The written event agreement will designate the authorized museum space and time for the approved use and shall specify applicable costs and fees. The event fees include:

1. a base service charge, which is established based on the agency's cost of standard security, custodial, utilities, and administrative support required to service previous functions of a similar size and type;

2. a donation, which is a gift to a designated fund in the Louisiana Museum Foundation or another OSM-designated nonprofit organization whose primary purpose is to support the mission of the OSM, which fund is designated for OSM use for endowment, education, exhibits, acquisition, publications, conservation and building function support purposes;

3. additional charges based on the nature of the requested use and/or additional requirements as agreed upon. Such additional charges will be included in the written event agreement and may relate to fees and/or required donations;

4. additional charges for use that requires the closing of any portion of the museum prior to its normal closing time in the amount of $250 per hour plus applicable fees and donation for the period closed during public hours;

5. additional charges imposed if, after the completion of the event, actual use exceeded the authorized use; e.g., the actual number of persons in attendance exceeded the planned number or the time and space used were greater than planned;

6. additional charges imposed if, after the completion of the event, there are any repairs necessary to the museum building, grounds, collections, property, or exhibitions that are the result of the use;

7. additional charges will be in addition to all other charges and fees and will be payable by the host to the OSM immediately upon notification.

B. A deposit of not less than 50 percent of the total indicated in the written agreement will be paid by the host to the OSM at least 30 days prior to the date of the use. The balance and any additional charges required will be payable upon billing by the OSM, at the time of or following the use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:341 et seq., and R.S. 36:204(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Museums, LR 11:683 (July 1985), amended LR 13:83 (February 1987), LR 16:295 (April 1990), LR 20:783 (July 1994), LR 24:2233 (December 1998), LR 31:1055 (May 2005), LR 43:1522 (August 2017).

§111. Building Use Fee Schedule for Events [Formerly §103]

A. Base Service Charge Fees—All Buildings

1. Business meetings and lectures

a. In New Orleans and Baton Rouge, maximum 200 persons.

Guests	First Hour	Each Additional Hour
1-100	$500	$150
101-200	$750	$200

b. In Natchitoches, Patterson and Thibodaux, maximum 200 persons.

Guests	First Hour	Each Additional Hour
1-100	$200	$100
101-200	$250	$150

c. An additional cleaning and repair fee of $200 during public hours and $300 during non-public hours will be charged for costs involved in preparation and post-function requirements.

2. Receptions and Similar Functions. Minimum requirement will be one hour plus set-up and cleaning.

a. In New Orleans and Baton Rouge

Guests	First Hour	Each Additional Hour
1-200	$700	$200
201-300	$800	$250
301-500	$900	$300
501+	$1,000	$350

b. In Natchitoches, Patterson and Thibodaux

Guests	First Hour	Each Additional Hour
1-200	$200	$150
201-300	$250	$200
301+	$300	$250

c. An additional cleaning repair fee of $300 will be charged for costs involved in preparation and post-function responsibilities.

3. Sit-Down Meals. Seated meals with wait staff will be charged an additional $200 per hour.

a. An additional cleaning repair fee of $500 will be charged for costs involved in preparation and post-function requirements.

b. All sit-down dinners must be catered to include waiters serving dinners to each table. The ratio of waiters to diners must be at least 1 to 10.

B. The agency may only waive the base service charge fees for use by the agency, department, or use by an entity that is cooperating with the agency on an endeavor that fulfills a public purpose that comports with the agency's purposes.

C. Donation. Donations will be in accordance with the following schedule.

Location	Building	Rate (per hr.)
Baton Rouge	Museum	$1,000
New Orleans	Cabildo	$1,000
New Orleans	Presbytere	$1,000

Location	Building	Rate (per hr.)
New Orleans	Old U.S. Mint	$1,000
New Orleans	Arsenal	$500
New Orleans	Mme. John's Legacy	$500
Patterson	Museum	$200
Natchitoches	Museum	$350
Thibodaux	Historical Site with Grounds	$200

NOTE: Time will be rounded to the next quarter hour for determination of donation requirements.

D. The agency may only waive all or part of the donation portion when he determines that to do so would be in the best interest of the OSM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:341 et seq., and R.S. 36:204(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museums, LR 11:683 (July 1985), amended LR 13:83 (February 1987), LR 16:295 (April 1990), LR 20:783 (July 1994), LR 24:2233 (December 1998), LR 31:1055 (May 2005), LR 43:1522 (August 2017).

Rennie S. Buras, II
Deputy Secretary

1708#014

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices (LAC 28:XI.5909)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted amendments to *Bulletin 118—Statewide Assessment Standards and Practices*: §305, Test Security Policy; §307, Change of District Test Coordinator Notification; §309, Erasure Analysis; §311, Addressing Suspected Violations of Test Security and Troubling Content in Written Responses; and §316, Cell Phones and Other Electronic Devices. The revisions require local education agency (LEA) test security policies be reviewed once every three years, require that LEAs collect all student cell phones prior to students gaining access to secure test materials, require that all test administrators keep cell phones off while in the vicinity of secure materials, provide that test administrators may only access those electronic devices required for approved accommodations, online assessments, or to provide technical assistance during online assessments, and remove outdated procedures.

Title 28
EDUCATION
Part XI. Accountability/Testing
Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices
Chapter 59. Kindergarten Developmental Readiness Screening Program
§5909. State BESE-Approved Instruments [Formerly LAC 28:CXI.909]

A. Instruments approved for use beginning with the 2017-2018 academic year. School districts may use any of these instruments.

Name of Instrument	Publisher
Developing Skills Checklist (DSC) (authorized through the 2017-2018 school year)	CTB McMillan/McGraw-Hill
GOLD Survey	Teaching Strategies, LLC
Desired Results Developmental Profile Assessments (DRDP)-K	California Department of Education

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 and R.S. 17:391.11.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1535 (July 2005), amended LR 43:1523 (August 2017).

Shan N. Davis
Executive Director

1708#009

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Secondary Hazardous Materials
(LAC 33:V.105, 109, and 322)(HW118)

Editor's Note: This Rule is being repromulgated to correct citation errors. The original Rule can be viewed in the June 20, 2017 edition of the *Louisiana Register* on pages 1151-1161.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.105, 109, and 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. - 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 June 20, 2017 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 June 20, 2017 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 June 20, 2017 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 June 20, 2017 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 June 20, 2017 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 Secretary, Legal Division, LR 43:1151 (June 2017), repromulgated by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:1523 (2017).

§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)**
Spent Materials	*	*	*	*
Sludges (listed in LAC 33:V.4901)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	.....	*
By-products (listed in LAC 33:V.4901)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	.....	*
Commercial chemical products (listed in LAC 33: V.4901.E and F)	*	*	.....	.....

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)**
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), 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 43:1159 (June 2017), repromulgated by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:1531 (2017).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class
A. - 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 43:1161 (June 2017), repromulgated by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:1534 (2017).

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RULE

Office of the Governor
Coastal Protection and Restoration Authority

Oil Spill Prevention and Response
(LAC 43:XXIX.Chapter 1)

Under the authority of Act 362 of the 2016 Louisiana Legislative Regular Session (Act 362), and in accordance with the provisions of the Administrative Procedure Act,. R.S. 49:950 et seq., the chairman of the Coastal Protection and Restoration Authority (CPRA), in coordination with the Oil Spill Coordinator's Office (LOSCO), have amended the oil spill prevention and response act regulations, LAC 43:XXIX.109, 121, 125, and 129.

Act 362 authorized CPRA to establish a restoration banking program and corresponding oil spill compensation schedule. On January 20, 2017, CPRA filed proposed rules to govern the restoration banking program, and the purpose of the current proposed amendments is to establish the corresponding oil spill compensation schedule (schedule) for that program. The schedule may be utilized by the State trustees [CPRA, LOSCO, the Department of Environmental Quality, the Department of Natural Resources, and the Department of Wildlife and Fisheries (collectively, state trustees)] as an additional expedited procedure to assess natural resource injuries associated with certain oil spills in the Louisiana coastal area. The amendments also authorize the state trustees, where appropriate, to propose and select the purchase of credits from certified restoration banks established in accordance with LAC 43:XXXI.Chapter 1 to restore for natural resource injuries from oil spills in the Louisiana coastal area.

Title 43
NATURAL RESOURCES
Part XXIX. Oil Spill Prevention and Response

Chapter 1. Natural Resource Damage Assessment

Subchapter A. General Provisions

§109. Definitions

A. …

* * *

Discounted Service Acre-Year (*DSAY*)—a unit of measure that is commonly used in habitat equivalency analysis and reflects the level of ecological services provided by a specified acreage of habitat over time, adjusted to account for differences in timing between the provision of injured and compensatory ecological services. Habitat equivalency analysis is a methodology commonly used in natural resource damage assessments to quantify losses in ecological services provided by injured natural resource habitat over time and estimate the scale of compensatory restoration actions appropriate to offset quantified losses.

* * *

Louisiana Coastal Area—Louisiana coastal waters, defined in R.S. 49:214.2(4) as "the Louisiana coastal zone and contiguous areas subject to storm or tidal surge and the area comprising the Louisiana coastal ecosystem as defined in section 7001 of P.L. 110-114".

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 25:501 (March 1999), amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:1534 (August 2017).

Subchapter C. Natural Resource Damage Assessments

§121. Assessment Procedures and Protocols for Determining, Quantifying, and Valuing Natural Resource Injury and Loss of Services

A. - H.3. …

4. When appropriate, the coordinator and the state natural resource trustees may, at their sole discretion, utilize the schedule below as an expedited assessment procedure to assess natural resource injuries associated with an unauthorized discharge of crude oil, or other oil that in the sole discretion of the coordinator and state natural resource trustees interacts with the environment in a manner similar to crude oil, in the Louisiana coastal area.

Injury Amount (DSAYS)	Habitat(s) See RRP PEIS for definitions of habitats	Oiling Conditions and/or Response Activities
Coastal Herbaceous Wetlands		
15.08	Saline or Brackish marsh or Fresh marsh	Sediments are or have been saturated with oil; or excavation or other severe response actions have occurred.
1.81	Saline or Brackish marsh (Spartina-dominated)	Moderate to heavy oiling on a large portion of the plants; or heavy oiling in/on the sediments; or significant response activities have occurred.
	Saline or Brackish marsh (Mangrove-dominated)	Moderate to heavy oiling on a medium to large portion of the plants; or heavy oiling in/on the sediments; or moderate response activities have occurred.
1.02	Fresh marsh (Phragmites-dominated)	Light to heavy oiling on a medium to large portion of the plants; or heavy oiling in/on the sediments; or the Phragmites is cut as a response measure.
0.75	Saline or Brackish marsh (Spartina-dominated) or Fresh marsh (excluding Phragmites-dominated)	Moderate oiling on a medium portion of the plants or light oiling on a medium portion of the plants and light to moderate oiling in/on the sediments; or moderate oiling in/on the sediments; or moderate response activities have occurred.
0.39	Saline or Brackish marsh (Spartina-dominated marsh)	Light to heavy oiling on the plants while plants are in senescence.
	Mudflats	Light to heavy oiling on the mudflat.
0.13	Saline or Brackish marsh (Spartina-dominated)	Light oiling on the plants.
	Fresh marsh (Phragmites-dominated)	Light to heavy oiling on a small portion of the plants; or the Phragmites is cut as a response measure while in senescence.
0.01	Saline or Brackish marsh or Fresh marsh	Presence of light sheen on water adjacent to or in the marsh.
Coastal Forested Wetlands		
28.06	Cypress Forest	Sediments are or have been saturated with oil; or excavation or other severe response actions have occurred.
27.71	Bottomland Hardwood Forest	Sediments are or have been saturated with oil; or the majority of the tree canopy is oiled; or excavation or other severe response actions have occurred.
2.42	Cypress Forest or Bottomland Hardwood Forest	Light to heavy oiling on the bark of trees.

a. Trustees may utilize the schedule as a basis for negotiated settlements in which the responsible party pays the trustees a certain amount to resolve natural resource damage claims. Trustees may utilize these funds to:

i. purchase restoration credits that are consistent with the requirements of OPA and OSPRA from restoration banks certified and established in accordance with LAC 43:XXXI.Chapter 1; or

ii. if no appropriate restoration bank credits become available within a reasonable time frame, fund existing restoration strategies or plans.

b. The coordinator shall give public notice of any updates to this schedule in accordance with §135.A of this Chapter.

I. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 25:501 (March 1999), amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:1534 (August 2017).

§125. Plans for Restoration, Rehabilitation, Replacement and/or Acquisition of the Equivalent of Injured Natural Resources

A. - F. ...

G. If one or more restoration banks have been certified under LAC 43:XXXI.Chapter 1, the state trustees may, where consistent with the requirements of OPA and OSPRA, propose and select the purchase of credits from a certified NRD restoration bank as the preferred restoration alternative for purposes of compensating for the injuries resulting from a particular incident.

H. The coordinator shall issue a certificate of completion to the responsible party when no further actions are necessary to achieve the goals of the restoration plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 25:501 (March 1999), amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:1535 (August 2017).

Subchapter D. Administration

§129. Recovery of Damages

A. - A.2. …

3. negotiate and purchase the credit(s) specified by the state trustees from a restoration bank certified under LAC 43:XXXI.Chapter 1, provided that the offered credit price is consistent with the requirement for cost-effective restoration under OPA and OSPRA. Should the state trustees determine that the price being offered for the purchase of the credit(s) is not cost-effective (as that term is defined in OPA and OSPRA rules and regulations) the state trustees may elect to propose and select other restoration alternatives consistent with the requirements of OPA and OSPRA.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 25:501 (March 1999), amended by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:1535 (August 2017).

Johnny B. Bradberry
Chairman

1708#032

RULE

Department of Health
Board of Embalmers and Funeral Directors

License, Internship, Inspection, and Fees
(LAC 46:XXXVII.301, 501, 505, 509,
513, 701, 703, 901, 1107, and 2001)

The Board of Embalmers and Funeral Directors has amended LAC 46:XXXVII.Chapters 3, 5, 7, 9, 11 and 20 pursuant to the authority granted by R.S. 37:840 in accordance with the provisions of the Administrative Procedure Act, amending provisions of the rules, regulations, and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding of these changes.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVII. Embalmers and Funeral Directors

Chapter 3. Application

§301. Application Forms

A. Applications for a funeral director license or an embalmer and funeral director license shall be made on forms as provided by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 5:277 (September 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2819 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017).

Chapter 5. Examination

§501. Place and Time

A. Examinations shall be held at those times as the board may deem necessary and expedient either:

1. at such other location(s) as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993), LR 30:2819 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017).

§505. Examination for an Embalmer and Funeral Director

A. Applicants for an embalmer and funeral director license shall be given a written and/or oral examination on subjects defined in courses required by the American Board of Funeral Service Education and laws, rules, and regulations of the state of Louisiana, together with any such other subjects as the board may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 19:744 (June 1993), LR 30:2819 (December 2004), amended by the Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017).

§509. Failing Examination

A. Any applicant for a funeral director or an embalmer and funeral director license whose application has been accepted by the board, and who shall fail in an examination shall not be entitled to the return of the examination fee. In order to qualify for subsequent examinations, applicant must reapply as provided in R.S. 37:842. In addition, the board, at its discretion, may stipulate certain requirements that deal with preparation and study for the re-examination.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), amended LR 11:687 (July 1985) repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2820 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017).

§513. Passing Examination

A. When the applicant for an embalmer and funeral director license has complied with all requirements, and receives a passing grade of not less than 75 percent on the examination, he shall be entitled to receive a license to practice embalming and funeral directing.

B. …

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended and promulgated LR 5:277 (September 1979), LR 17:271 (March 1991), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2820 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017).

Chapter 7. License

§701. Renewal and Reinstatement

A. All individual funeral director or embalmer and funeral director licenses issued by the board shall expire on the thirty-first day of December of each year and must be renewed on or before that date. All establishment licenses and the annual report of prepaid funeral services or merchandise shall also expire on the thirty-first day of December and must be renewed on or before that date. Applications for renewal of licenses must be made to the secretary of the board upon forms furnished by said board and must be accompanied by a renewal fee as established by the board.

B. Application for renewal of a funeral director or an embalmer and funeral director license and establishment license may be submitted to the board any time after October 1 of each year. When a licensed funeral establishment or individual licensee renews the license, should the check be deficient in any manner, the license shall be considered as non issued and a new application and fee must be submitted.

C. When the holder of an embalmer and funeral director or funeral director license has failed to renew his license on or before December 31 of each year, said license shall lapse and a new application and fee must be submitted. In any

event, no license will be reinstated without a payment of all fees delinquent from date of lapse to date of reinstatement. Applicant may also be required to take a written Louisiana laws and regulations test.

D. …

E. As all license applications for an embalmer and funeral director, funeral director, or funeral establishments are received, the board will process same in a timely fashion and will begin mailing the licenses to the individuals and establishments so applying no later than December 15 of each year.

F. - J. …

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, LR 4:227 (June 1978), LR 5:279 (September 1979), LR 11:687 (July 1985), LR 13:436 (August 1987), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 21:1237 (November 1995), LR 30:2820 (December 2004), LR 34:2399 (November 2008), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1536 (August 2017).

§703. Duplicate Certificate

A. Any person holding a certificate issued by this board and desiring a duplicate thereof, may obtain same from the secretary of the board upon application accompanied by a fee as established by the board.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended December 1970, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2821 (December 2004), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1537 (August 2017).

Chapter 9. Internship

§901. Requirements for an Embalmer and Funeral Director License

A. Any person desiring to engage in the practice of embalming and funeral directing in this state, except those holding a temporary license, shall serve as an intern within the state of Louisiana.

1. The employment of the intern at the funeral home may be verified by the board. Verification of employment will be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue, or, alternatively, some other official form used to verify employment which is acceptable to the board.

2. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

3. The board-registered supervisor shall certify or verify the cases and the contact hours that the intern worked during the month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), amended LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 42:404 (March 2016), repromulgated by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1537 (August 2017).

Chapter 11. Funeral Establishments

§1107. Inspection

A. - C.2. …

a. The following auxiliary or branch establishments shall be subject to inspection and exempt from the above requirement except for R.S. 1107(B)(4), (5), (6), (8) and (9):

i. any establishment if it is within 40 miles radius of the main establishment and can be practically served by the licensed personnel of the main establishment;

ii. if said auxiliary or branch establishment exceeds 40 miles radius and there exists a public need for said facilities. The nonexistence of any funeral establishment which serves the public need shall be presumptive evidence of "public need."

D. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended and promulgated LR 4:227 (June 1978), amended LR 4:295 (August 1978), LR 4:356 (September 1978), LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:191 (February 1994), LR 20:1380 (December 1994), LR 30:2825 (December 2004), LR 42:405 (March 2016), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1537 (August 2017).

Chapter 20. Fees

§2001. Fees

A. The board shall require payment of fees hereunder as follows:

1. a fee of $250 from each person applying for a funeral director license;

2. a fee of $250 from each person applying for an embalmer and funeral director license;

3. - 12. …

AUTHORITYNOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), amended LR 42:405 (March 2016), amended by Department of Health, Board of Embalmers and Funeral Directors, LR 43:1537 (August 2017).

Kim W. Michel
Executive Director

1708#053

RULE

Department of Health
Board of Pharmacy

Marijuana Pharmacy (LAC 46:LIII.Chapter 24)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has adopted a new Subchapter of rules; more specifically, Chapter 24, Limited Service Providers, Subchapter E, Marijuana Pharmacy. The Rule was prepared in response to Act 261 of the 2015 Legislature and Act 96 of

the 2016 Legislature, and it establishes standards for the packaging and labeling of marijuana products as well as the dispensing of such products in pharmacies licensed by the board.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 24. Limited Service Providers
Subchapter E. Marijuana Pharmacy
§2440. Preamble; Warning; Consultation Suggested

A. Pursuant to Act 261 of the Regular Session of the 2015 Louisiana Legislature as well as the subsequent amendment found in Act 96 of the Regular Session of the 2016 Louisiana Legislature, the Board of Pharmacy was directed to:

1. develop an annual, nontransferable specialty license for a pharmacy to dispense recommended marijuana for therapeutic use, to limit the number of such licenses to a maximum of 10, and to adopt rules regarding the geographical locations of dispensing pharmacies in the state; and

2. adopt rules relating to the dispensing of recommended marijuana for therapeutic use, with such rules to include, at a minimum, the following:

a. standards, procedures, and protocols for the effective use of recommended marijuana for therapeutic use as authorized by state law and related rules;

b. standards, procedures, and protocols for the dispensing and tracking of recommended therapeutic marijuana;

c. procedures and protocols to provide that no recommended therapeutic marijuana may be dispensed from, produced from, obtained from, sold to, or transferred to a location outside of this state;

d. standards, procedures, and protocols for determining the amount of usable recommended therapeutic marijuana that is necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amount for topical treatments;

e. standards, procedures, and protocols to ensure all recommended therapeutic marijuana dispensed is consistently pharmaceutical grade;

f. standards and procedures for the revocation, suspension, and nonrenewal of licenses;

g. other licensing, renewal, and operational standards deemed necessary by the Board of Pharmacy;

h. standards and procedures for testing recommended therapeutic marijuana samples for levels of tetrahydrocannabinols (THC) or other testing parameters deemed appropriate by the Board of Pharmacy;

i. standards for the protection of health, safety, and security for dispensers of recommended therapeutic marijuana;

j. standards for the licensure of dispensers of recommended therapeutic marijuana; and

k. standards for financial capacity to operate a marijuana pharmacy.

B. Marijuana is classified as a schedule I controlled substance by the U.S. Department of Justice, Drug Enforcement Administration.

1. As provided by the federal Controlled Substances Act, the procurement, possession, prescribing, distribution, dispensing, or administering of any schedule I controlled substance, including marijuana, is a violation of federal law.

2. Neither Louisiana law nor this Part can preempt federal law. Therefore, the provisions of this Subchapter notwithstanding, persons engaged in the activities described herein remain subject to the full force of federal law enforcement, including arrest and prosecution of criminal charges, the assessment of civil fines and forfeitures, as well as administrative consequences such as forfeiture of federal controlled substance registrations and exclusion from Medicare and other federal payer programs.

C. For the foregoing reasons, pharmacists and other persons credentialed by the board may wish to consult with their own legal counsel as well as any health care facility, private or governmental payor with which they are affiliated, professional liability insurers, and financial institutions with which they maintain depository relationships before engaging in the activities described herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017).

§2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Administer—the direct application of marijuana to the body of a qualifying patient by ingestion or any other means.

Advertisement—all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of marijuana.

Agent—an authorized person who acts on behalf of or at the direction of another person. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

Approved Safe—a safe which conforms to or exceeds all of the following standards:

a. shall have the following specifications or the equivalent:

i. 30 man-minutes against surreptitious entry;

ii. 10 man-minutes against forced entry;

iii. 20 man-hours against lock manipulation; and

iv. 20 man-hours against radiological techniques;

b. if it weighs less than 750 pounds, is bolted or cemented to the floor or wall in such a way it cannot be readily removed; and

c. is equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or state police agency which has a legal duty to respond, or a 24-hour control station operated by the licensee, or such other protection as the board or its designee may approve.

Approved Vault—

a. a vault constructed before, or under construction on, September 1, 1971, which is of substantial construction with a steel door, combination or key lock, and an alarm system; or

b. a vault constructed after September 1, 1971:

i. the walls, floors, and ceilings of which are constructed of at least 8 inches of reinforced concrete or

other substantial masonry, reinforced vertically and horizontally with one-half inch steel rods tied 6 inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;

ii. the door and frame unit of which vault shall conform to the following specifications or the equivalent:

(a). thirty man-minutes against surreptitious entry;

(b). ten man-minutes against forced entry;

(c). twenty man-hours against lock manipulation; and

(d). twenty man-hours against radiological techniques;

iii. which vault, if operations require it to remain open for frequent access, is equipped with a "day gate" which is self-closing and self-locking or the equivalent, for use during the hours of operation in which the vault door is open;

iv. the walls or perimeter of which are equipped with an alarm which, upon unauthorized entry, shall transmit a signal directly to a central station protection company, or a local or state police agency which has a legal responsibility to respond, or a 24-hour control station operated by the licensee, or such other protection as the board or its designee may approve, and if necessary, alarm buttons at strategic points of entry to the perimeter area of the vault;

v. the door of which shall be equipped with one or more contact switches; and

vi. which vault has one of the following:

(a). complete electrical lacing of the walls, floor and ceiling;

(b). sensitive ultrasonic equipment within the vault;

(c). sensitive sound accumulator system; or

(d). such other device designed to detect illegal entry as may be approved by the board.

Board—the Louisiana Board of Pharmacy.

CFR—Code of Federal Regulations.

Deliver or *Delivery*—the actual, constructive or attempted transfer from one person to another of marijuana, whether or not there is an agency relationship.

Financial Interest—any actual, or a future right to, ownership or investment, either directly or indirectly, through business, investment or immediate family. Financial interest does not include ownership of investment securities in a publicly-held corporation that is traded on a national exchange or over-the-counter market, provided the investment securities held by such person do not exceed 5 percent of the total number of shares issued by the corporation.

Immediate Family—R.S. 42:1102; i.e., his children and the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse.

LDAF—the Louisiana Department of Agriculture and Forestry.

LDH—the Louisiana Department of Health.

Louisiana Medical Marijuana Tracking System (LMMTS)—the required seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the product is sold to a pharmacy or is destroyed.

Marijuana—all parts of plants of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Marijuana Pharmacy—that area within a facility where marijuana is stored, dispensed, and sold. If a facility does not offer any products or services other than marijuana and/or related supplies, the entire facility is a marijuana pharmacy for the purposes of this Subchapter.

Marijuana Pharmacy Owner—any person with an ownership interest in a marijuana pharmacy, except the term does not include a person with an investment interest through a publicly-held company provided the interest held by such person does not exceed five per cent of the total ownership or interest rights in such pharmacy and such person does not participate directly or indirectly in the control, management, or operation of the pharmacy.

Marijuana Product—any product containing marijuana, including raw materials, that requires no further processing and that is packaged for sale to pharmacies, qualifying patients and primary caregivers.

Owner's Managing Officer—the person designated by the organization owning the pharmacy to be responsible to the board for the proper operation of the pharmacy in compliance with all applicable laws and regulations.

Pharmaceutical Grade Marijuana—marijuana or marijuana products that are not adulterated and are:

a. processed, packaged and labeled according to the United States Food and Drug Administration's "current good manufacturing practice in manufacturing, packaging, labeling, or holding operations for dietary supplements," as found in 21 CFR 111 or its successor;

b. labeled with the results of an active ingredient analysis, a microbiological contaminants analysis, a mycotoxin analysis, a heavy metal analysis, and a pesticide chemical residue analysis which have been completed on a batch basis by a laboratory; and

c. where each step of the production, cultivating, trimming, curing, manufacturing, processing, and packaging method has been documented by using standard operation procedures approved by the commissioner of the Department of Agriculture and Forestry.

Pharmacist—an individual currently licensed by the board to engage in the practice of pharmacy.

Pharmacy Technician—an individual who assists in the practice of pharmacy under the direct and immediate supervision of a licensed pharmacist and is currently certified to do so by the board.

Physician—an individual currently licensed by the state Board of Medical Examiners to engage in the practice of medicine.

Prescription Monitoring Program (*PMP*)—the electronic prescription drug monitoring program established by R.S. 40:1001 et seq.

Producer—a person licensed by the Department of Agriculture and Forestry to cultivate marijuana for therapeutic use.

Production or *Produce*—the manufacture, planting, preparation, cultivation, growing, harvesting, propagation, compounding, conversion or processing of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of marijuana by a patient or caregiver for the patient's use.

Production Facility—a secure facility where the production of marijuana occurs and that is operated by a person to whom the Department of Agriculture and Forestry has issued a producer license.

Sale—any form of delivery, which includes barter, exchange or gift, or offer therefor, and each such transaction made by any person whether as principal, proprietor, agent, servant, or employee.

Usable Marijuana—the dried leaves and flowers of the marijuana plant, and any mixtures or preparations of such leaves and flowers that are appropriate for the therapeutic use of marijuana, but does not include the seeds, stalks, and roots of the marijuana plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017).

§2443. Marijuana Products

A. Exclusive Source

1. The exclusive source of marijuana products shall be the producer licensed for that activity by the Department of Agriculture and Forestry (LDAF).

2. That producer shall prepare pharmaceutical grade marijuana products for distribution to the marijuana pharmacies licensed by the board.

3. Marijuana products from any other source shall be deemed misbranded and/or adulterated and shall not be distributed to any marijuana pharmacy, nor may such misbranded and/or adulterated products be dispensed by any marijuana pharmacy.

B. Laboratory Testing

1. Prior to manufacturing any marijuana product, the producer shall segregate all harvested marijuana into homogenized batches.

2. A producer shall make available each such batch at the production facility for testing by a laboratory approved by LDAF. The laboratory employee shall select a random sample from each batch.

a. Medical marijuana concentrate shall not be used to produce any form of product until it has passed all analysis limits for:

i. active ingredient analysis for characterization of potency;

ii. pesticide active ingredients, including but not limited to, the most recent list of targeted pesticides published by LDAF;

iii. residual solvents;

iv. heavy metals; and

v. mycotoxins.

b. Product shall not be released for delivery to a pharmacy for sale or consumption until it has passed all analysis limits for:

i. microbiological contaminants;

ii. active ingredient analysis for accuracy of potency; and

iii. homogeneity.

c. LDAF personnel may select a random sample at any point in the process for the purpose of analysis for anything the LDAF deems necessary.

d. Samples shall be secured in a manner approved by LDAF at all times when not in immediate use for the analyses being conducted.

3. From the time that a batch of marijuana has been homogenized for sample testing and eventual packaging and sale to a pharmacy until the laboratory provides the results from its tests and analyses, the producer shall segregate and withhold from use the entire batch with the exception of the samples removed by the laboratory for testing. During this period of segregation, the producer shall maintain the marijuana batch in a secure, cool and dry location so as to prevent the marijuana from becoming contaminated or losing its efficacy. Under no circumstances shall a producer include marijuana in a marijuana product or sell it to a pharmacy prior to the time the laboratory has completed its testing and analysis and provided those results, in written or electronic form, to the producer or the producer's designated employee.

4. Testing Specifications

a. With respect to the microbiological test, a marijuana sample shall be deemed to have passed if it satisfies the recommended microbial and fungal limits for cannabis products as follows:

i. total yeast and mold: < 10,000 colony-forming units per gram (CFU/g); and

ii. E. coli (pathogenic strains) and Salmonella spp: < 1 CFU/g.

b. With respect to the mycotoxins test, a marijuana sample shall be deemed to have passed if it meets the following standards:

i. aflatoxin b1 < 20 parts per billion (ppb);

ii. aflatoxin b2 < 20 ppb;

iii. aflatoxin g1 < 20 ppb;

iv. aflatoxin g2 < 20 ppb; and

v. ochratoxin < 20 ppb.

c. With respect to the heavy metals test, a marijuana sample shall be deemed to have passed if it meets the following standards:

i. arsenic < 10 parts per million (ppm);

ii. cadmium < 4.1 ppm;

iii. lead < 10 ppm; and

iv. mercury < 2 ppm.

d. With respect to the pesticide chemical residue test, a marijuana sample shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item set forth in Subpart C of the United States Environmental Protection Agency's "tolerances and exemptions for pesticide chemical residues in food", as found in 40 CFR 180 or its successor.

e. With respect to the residual solvent test, a marijuana sample shall be deemed to have passed if the following solvents are below the listed limits:

i. butanes < 800 ppm;
ii. heptanes < 500 ppm;
iii. benzene < 1 ppm;
iv. toluene < 1 ppm;
v. hexanes < 10 ppm;
vi. total xylenes < 1 ppm; and
vii. ethanol < 5,000 ppm.

f. With respect to the test for homogeneity, a marijuana sample shall be deemed to have failed if 10 percent of the sample contains more than 20 percent of the total active ingredient.

g. Every sample shall undergo an active ingredient analysis or potency analysis.

i. For medical marijuana concentrate samples, the potency test is to establish the presence of active ingredients and their concentrations for accurate calculations of amounts needed for the production of products. The analysis must identify the following substances:

(a). THC (tetrahydrocannabinol);
(b). THCA (tetrahydrocannabinolic acid);
(c). CBD (cannabidiol); and
(d). CBDA (cannabidiolic acid).

ii. For product samples, the potency test is to establish the active ingredient composition for verification of labeling to ensure accurate dosing. The maximum variance permitted is 15 percent from the labeled amount. For example, a product labeled as containing 10 milligrams of tetrahydrocannabinol (THC) shall contain no less than 8.5 milligrams THC and no more than 11.5 milligrams THC.

5. Procedures for Sample Failures

a. In the event a medical marijuana concentrate sample fails testing for pesticides, heavy metals or mycotoxin, the entire batch from which the sample was taken shall be disposed of in accordance with the disposal rules promulgated by LDAF.

b. In the event a medical marijuana concentrate sample fails residual solvent testing, then, with prior approval of LDAF, the product may be subjected to an appropriate remedy, e.g., vacuum drying, reformulated and tested again. The reformulation must pass all required tests for a medical marijuana concentrate in duplicate before it can be released for use in products. If either duplicate fails any test, the entire batch shall be disposed of in accordance with the disposal rules promulgated by LDAF. A batch of medical marijuana concentrate can only be reformulated once and only to remedy excessive residual solvents.

c. In the event a product fails the microbiological testing, the entire batch from which the sample was taken shall be disposed of in accordance with the disposal rules promulgated by LDAF.

d. In the event a product fails the potency or homogeneity testing, then, with prior approval of LDAF, the product can be re-sized and tested again. The reformulated product shall be tested again in duplicate and pass all required tests before it can be released for sale or consumption. If either duplicate fails any test, the entire batch shall be disposed of in accordance with the disposal rules promulgated by LDAF.

6. In the event of any test failure, the laboratory shall transmit to LDAF an electronic copy of such test result at the same time it transmits those results to the producer. In addition, the laboratory shall maintain the laboratory test results including all relevant chromatograms and quality control documentation for at least five years and make them available to LDAF at its request.

7. The laboratory shall dispose of any remaining medical marijuana concentrate or product samples no sooner than 60 days following the completion of any testing, in compliance with the disposal rules promulgated by LDAF.

8. A producer shall provide the laboratory test results to the marijuana pharmacy for each batch of marijuana used in a product acquired by the marijuana pharmacy. The pharmacy shall make such testing results available upon request to their patients, caregivers, and physicians who recommended such marijuana products dispensed to their patients.

C. Product Dosage Forms

1. The producer shall limit their production of pharmaceutical grade marijuana products to the following dosage forms:

a. oils, extracts, tinctures, or sprays;
b. solid oral dosage forms, e.g., capsules or pills;
c. liquid oral dosage forms, e.g., solutions or suspensions;
d. gelatin-based chewables;
e. topical applications, oils or lotions;
f. transdermal patches; or
g. suppositories.

2. No marijuana product shall:

a. include alcoholic liquor, dietary supplements, or any drug, except for pharmaceutical grade marijuana. For purposes of this provision, alcoholic liquor does not include any liquid or solid containing less than 0.5 percent of alcohol by volume, or ethanol-based tinctures;

b. be manufactured or sold as a beverage;

c. be manufactured or sold in a form or with a design that:

i. is obscene or indecent;
ii. may encourage the use of marijuana for recreational purposes;
iii. may encourage the use of marijuana for a condition other than a debilitating medical condition; or
iv. is customarily associated with persons under the age of 18 years; or

d. have had pesticide chemicals or organic solvents used during the production or manufacturing process other than those which may be approved by the commissioner of LDAF.

3. Any marijuana product not in compliance with the provisions of this Paragraph shall be deemed adulterated.

D. Packaging and Labeling Requirements

1. Packaging

a. The producer shall ensure every product intended for dispensing to a patient is placed within a child-resistant, light-resistant, tamper-evident container prior to sale or transport to the pharmacy.

i. A package shall be deemed child-resistant if it satisfies the standard for 'special packaging' as set forth in the United States Consumer Product Safety Commission's "poison prevention packaging" as found in 16 CFR 1700.1(b)(4) or its successor.

ii. A package shall be deemed light-resistant if it satisfies the standard set forth in chapter 671, "containers:

performance testing," of the *United States Pharmacopeia* (*USP*).

iii. A package shall be deemed tamper-evident if it clearly indicates prior access to the container.

b. Any product containing pharmaceutical grade marijuana or its principal psychoactive constituent tetrahydrocannabinol (THC) shall be packaged so that one dose contains no more than 10 milligrams of THC.

c. If it is not intended for the entire product to be used at a single time, the packaging must be re-sealable in a manner that maintains its child-resistant property for multiple openings. Single doses may be placed in a package with other single doses; however, the total amount of active THC contained within the larger packaging shall not exceed 100 milligrams.

d. No single container shall contain more than a one-month supply of marijuana.

e. Packaging selected by the producer shall be subject to the following restrictions:

i. shall not specifically target individuals under the age of 18 years;

ii. shall not bear any resemblance to a trademarked, characteristic or product-specialized packaging of any commercially available candy, snack, baked good or beverage;

iii. shall not use the words "candy" or "candies";

iv. shall not use a cartoon, color scheme, image, graphic or feature that might make the package attractive to children; and

v. shall not use a seal, flag, crest, coat of arms or other insignia that could reasonably lead any person to believe the product has been endorsed, manufactured by, or used by any state, parish, municipality, or any agent thereof.

2. Labeling

a. Each product shall be labeled by the producer prior to its sale to the marijuana pharmacy. Each label shall be securely affixed to the package and shall include, at a minimum:

i. the batch or lot number assigned by the producer to the marijuana plant(s) from which the marijuana used in the product was harvested;

ii. a complete list of solvents, chemicals, and pesticides used in the creation of any marijuana concentrate;

iii. a complete list of all ingredients used to manufacture the product, which may include a list of any potential allergens contained within, or used in the manufacture of, a product;

iv. the potency of the THC and CBD in the product, expressed in milligrams for each cannabinoid;

v. the net weight, using a standard of measure compatible with the LMMTS, of the product prior to its placement in the shipping container;

vi. a product expiration date, upon which the product will no longer be fit for use. Once a label with an expiration date has been affixed to a product, the producer shall not alter that date or affix a new label with a later date; and

vii. a statement the product has been tested for contaminants, that there were no adverse findings, and the date of such testing.

b. The labeling text on any marijuana product shall not make any false or misleading statements regarding health or physical benefits to the consumer. Further, each label shall include all of the following statements:

i. "Contains Marijuana. For Medical Use Only. KEEP OUT OF THE REACH OF CHILDREN.";

ii. "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

iii. "There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning to become pregnant.";

iv. a statement that it is illegal for any person to possess or consume the contents of the package other than the patient for whom it was recommended.

c. The labeling text required by this Section shall be no smaller than 1/16 of an inch, shall be printed in English, and must be unobstructed and conspicuous.

d. The producer may utilize a package insert which is enclosed or attached to the product container to provide the information required in this Section. If the producer elects to use such supplementary labeling, the label affixed to the outer surface of the product container shall contain the following information, at a minimum:

i. the batch or lot number referenced at Clause D.2.a.i of this Section;

ii. the potency of the THC and CBD referenced at Clause D.2.a.iv of this Section;

iii. the net weight referenced at Clause D.2.a.v of this Section;

iv. the expiration date referenced at Clause D.2.a.vi of this Section; and

v. the caution statement referenced at Clause D.2.b.i of this Section.

E. Distribution of Marijuana Products to Marijuana Pharmacies

1. The producer shall maintain complete inventory records in the Louisiana medical marijuana tracking system (LMMTS), as required and delineated in rules promulgated by LDAF.

2. The producer shall maintain comprehensive records in LMMTS of all marijuana products distributed to the marijuana pharmacies, whether by transport and delivery to the pharmacy or by transfer to the agent of the pharmacy at the production facility.

3. In the event the producer delivers the products to the pharmacy, such activities must be in compliance with the rules for that activity promulgated by LDAF.

4. In the event the pharmacy elects to send an agent to the production facility to retrieve products ordered by the pharmacy, the personnel at the production facility shall verify the identity and credentials of the pharmacy's agent before releasing the products to the agent.

a. The producer shall provide a copy of the transport manifest generated by LMMTS, which shall contain the following information:

i. the name and address of the producer selling the product;

ii. the name and address of the pharmacy purchasing the product;

iii. the name and quantity (by weight or unit) of marijuana products included in the delivery;

iv. the date of transport and time of departure from the production facility;

v. the make, model, and license plate number of the delivery vehicle;

vi. the date and time of arrival at the pharmacy; and

vii. the name and signature of the pharmacy's agent.

b. The pharmacy's agent shall compare the transport manifest to the products transferred to his possession, and when correct, shall return a signed copy of the manifest to the producer before departing from the production facility.

c. The pharmacy's agent shall place the products in a locked, safe, and secure storage compartment that is part of the motor vehicle, or in the alternative, in a locked storage container that has a separate key or combination pad, and further, the product shall not visible or recognizable from outside the vehicle, and further, the vehicle shall not bear the name of the pharmacy or any markings to indicate the vehicle contains marijuana.

d. The pharmacy's agent shall maintain physical control of the vehicle at all times during the transport, and shall not leave the vehicle unattended at any time.

e. The pharmacy's agent shall have access to a secure form of communication with the pharmacy as well as the ability to contact law enforcement through the 911 emergency system.

f. Upon arrival at the pharmacy, the pharmacy's agent shall deliver the product to a pharmacist for verification of receipt; the pharmacist shall time, date, and sign the delivery manifest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017).

§2445. Marijuana Pharmacy Permit

A. The board shall develop and configure a pharmacy permit designated as a marijuana pharmacy permit.

B. The dispensing of marijuana for therapeutic purposes shall be limited to those pharmacies holding a marijuana pharmacy permit issued by the board, and only when that permit is in active or restricted status.

C. When issued to a successful applicant, the permit will authorize the operation of a marijuana pharmacy in compliance with the provisions of this Subchapter.

D. When the permit is issued, it shall be valid only for the owner and the specific location noted on the application and recorded on the permit.

E. A marijuana pharmacy permit is non-transferable from one owner to another owner, and moreover, in the event the ownership of the organization that acquired the permit changes by 50 percent or more, then the ownership will be deemed sufficiently different as to require a new marijuana pharmacy permit. A marijuana pharmacy permit owner continuing to operate a marijuana pharmacy after its ownership has changed by 50 percent or more without obtaining a new marijuana pharmacy permit shall be deemed guilty of operating a pharmacy without a valid permit, in violation of R.S. 37:1221.

F. Although a change of ownership of less than 50 percent shall not require a new pharmacy permit, any proposed change of ownership shall require prior notice to the board, and further, approval by the board.

G. The board shall not have more than 10 active marijuana pharmacy permits at any given time. To facilitate compliance with that legislative restriction, the board recognizes the nine regions previously declared by the Department of Health, to wit:

1. metropolitan, composed of the parishes of Jefferson, Orleans, Plaquemines, and St. Bernard;

2. capitol, composed of the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;

3. Teche, composed of the parishes of Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;

4. Acadian, composed of the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;

5. southwest, composed of the parishes of Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;

6. central, composed of the parishes of Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;

7. northwest, composed of the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster;

8. northeast, composed of the parishes of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and

9. southeast, composed of the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

H. To achieve an equitable distribution of the marijuana pharmacy permits across the state, the board shall reserve one marijuana pharmacy permit for each of the nine regions identified above. In the event the board is convinced of the need for a second permit in one region, it may issue that permit following the procedures identified in this Subchapter. Further expansion will require a legislative amendment of the original restriction.

I. When the board is prepared to receive and process applications for and issue marijuana pharmacy permits, it shall publish on its internet web site, and in such other places as the board deems appropriate, a notice to that effect. Such notice shall include, but not be limited to:

1. the maximum number of permits to be awarded;

2. information on how to obtain an application;

3. the deadline for receipt of applications;

4. acceptable methods for submitting an application;

5. the preferred locations, if any, for the marijuana pharmacy permits; and

6. the criteria that shall be considered in awarding the marijuana pharmacy permits.

J. Following the deadline for receipt of applications, the board shall evaluate each complete and timely submitted application and award marijuana pharmacy permits on a competitive basis based on the criteria set out in the notice for applications. In the event the board determines there are an insufficient number of qualified applicants to award all of the marijuana pharmacy permits the board has determined are desirable, the board may republish, in accordance with

this Section, a notice of open applications for marijuana pharmacy permits.

K. The board shall have the right to amend the notice of open applications prior to the deadline for submitting an application. Such amended notice shall be published in the same manner as the original notice of open applications.

L. The board shall have the right to cancel a notice of open applications prior to the award of a marijuana pharmacy permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1543 (August 2017).

§2447. Licensing Procedures

A. Application for Initial Issuance of Permit

1. The board shall develop an application form suitable for the marijuana pharmacy permit. The board may revise that application form on its own initiative in order to collect the information it deems necessary to properly evaluate an applicant.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. The applicant shall fully disclose the ownership of the entity that will own the permit as well as any additional holding companies that may exist, such that any natural person with any ownership interest shall be fully identified.

4. In the event any person holding any ownership interest in the entity submitting an application for a marijuana pharmacy permit has engaged in any of the following activities, the entity shall be disqualified and the board shall not issue a marijuana pharmacy permit to that applicant:

a. within the two-year period preceding the date of the application, the person or any member of the person's immediate family served as a member of the board or its staff.

5. The applicant shall provide a complete street address reflecting the location at which the applicant proposes to operate the marijuana pharmacy.

6. The applicant shall provide the following information and records in the application process:

a. a detailed description of any other services or products to be offered by the marijuana pharmacy;

b. details regarding the applicant's plans to maintain adequate control against the diversion, theft, or loss of marijuana;

c. documents or information sufficient to establish the applicant is authorized to conduct business in Louisiana and that all applicable state and local building, fire and zoning requirements, and local ordinances will be met;

d. text and graphic materials showing the exterior appearance of the proposed marijuana pharmacy and its site compatibility with commercial or residential structures already constructed or under construction within the immediate neighborhood;

e. a blueprint of the proposed marijuana pharmacy which shall, at a minimum, show and identify:

i. the square footage of the area which will constitute the prescription department;

ii. the square footage of the overall marijuana pharmacy;

iii. the square footage and location of areas used as storerooms or stockrooms;

iv. the size of the counter that will be used for the dispensing and sale of marijuana;

v. the location of the marijuana pharmacy sink and refrigerator, if any;

vi. the location of all approved safes and vaults that will be used to store marijuana;

vii. the location of the toilet facilities;

viii. the location of the break room and location of lockers for personal belongings;

ix. the location and size of the patient counseling area(s);

x. the location(s) where any other products or services will be offered; and

xi. the location of all areas that may contain marijuana showing the location of walls, partitions, counters, and all areas of ingress and egress;

f. such other documents and information reasonably required by the board to determine the applicant's suitability for permitting or to protect the public's health and safety.

7. The owner's managing officer and the pharmacist-in-charge shall be fully identified within the application and they both shall sign and date the application form.

8. The applicant shall direct the following persons to submit to the criminal history record check process used by the board, at the applicant's expense:

a. the owner's managing officer;

b. the pharmacist-in-charge; and

c. any person holding any share of ownership in the entity; provided however that any person not holding any share of ownership but holding a corporate officer position in the entity may be required to submit to the criminal history record check.

9. The requirement for a criminal history record check may be waived by the board in the event the person has already completed that process for the board within the two-year period prior to the date of the application.

10. The applicant shall supplement the application form with sufficient documentation of the applicant's financial capacity to properly operate a marijuana pharmacy, including but not limited to, evidence of his escrow account, letter of credit, or surety bond of at least $100,000 in a financial institution headquartered in Louisiana.

a. The pharmacy's $100,000 escrow account, letter of credit, or surety bond shall be payable to the board in the event the board determines after a due process hearing that the pharmacy has failed to timely and successfully complete the construction of the pharmacy or to operate such pharmacy in compliance with the provisions of this Subchapter.

b. The board shall permit the pharmacy's escrow account, letter of credit, or surety bond to be reduced by $25,000 upon the successful achievement of each of the following milestones:

i. a determination by the board that the pharmacy is fully operational and able to commence and has begun dispensing of marijuana as provided in this Subchapter;

ii. a determination by the board that the pharmacy remained operational and without substantial interruption

and without any violation of law or regulation for a one-year period; and

iii. a determination by the board that the pharmacy remained operational and without substantial interruption and without any violation of law or regulation for a second one-year period.

iv. the pharmacy shall maintain the escrow account, letter of credit, or surety bond for a minimum of $25,000 for the remainder of its operation.

c. In the event a pharmacy voluntarily chooses not to renew the pharmacy permit and follows proper closure procedures, the board shall extinguish the obligations under the escrow account, letter of credit, or surety bond at the end of the permit's term.

11. In the event any information contained in the application or accompanying documents changes after being submitted to the board, the applicant shall immediately notify the board in writing and provide corrected information in a timely manner so as not to disrupt the application processing or permit selection process.

12. The board may verify information contained in each application and accompanying documentation in order to assess the applicant's character and fitness to operate a marijuana pharmacy. The board may verify the information and assess the applicant's character and fitness by, among other actions:

a. contacting the applicant by telephone, electronic mail, mail, or such other means as is reasonable under the circumstances;

b. conducting one or more on-site visits of the location for the proposed marijuana pharmacy, or other pharmacies associated with the applicant or any of the applicant's owners;

c. conducting background checks or contacting references of the applicant, its managing officer, any of the corporate officers, or any shareholder, as well as the pharmacist-in-charge;

d. contacting state regulators in any other states where the applicant, the applicant's owners or corporate officers, or its pharmacist-in-charge are engaged in, or have sought to be engaged in, any aspect of that state's medical marijuana program; or

e. requiring a personal meeting with the owner's managing officer and the pharmacist-in-charge and the submission of additional information or documents.

13. The application shall be accompanied by payment of the permit fees and administrative hearing fee authorized by R.S. 37:1184 and 40:1013.

14. When the staff has determined an entity's application package is complete, the application shall be referred to the board's application review committee, and further, the applicant shall be properly notified at least 30 days prior to the committee's hearing during which their application will be considered.

15. During the hearing held by the board's application review committee, the members shall consider, but are not limited to, the following criteria when evaluating an application for a marijuana pharmacy permit:

a. the character and fitness of the owner's managing officer, the pharmacist-in-charge, any of the owners and any other person who may have control or influence over the operation of the proposed marijuana pharmacy;

b. the location for the proposed marijuana pharmacy including, but not limited to:

i. its proximity to previously approved marijuana pharmacies or locations of proposed marijuana pharmacies with pending applications;

ii. whether the patient population in the area proposed by the marijuana pharmacy permit applicant justifies the need for a marijuana pharmacy, or an additional marijuana pharmacy, in that area;

iii. whether the proximity of the proposed marijuana pharmacy will have a detrimental effect upon any place used primarily for religious worship, public or private school, convent, charitable institution, whether supported by private or public funds, hospital or veterans' home or any camp or military establishment; or

iv. whether the number of marijuana pharmacies in the locality is such that the granting of a permit is detrimental to the public interest. In reaching a conclusion in this respect, the board may consider the population of, the number of like permits and number of all permits existent in, the particular municipality and the immediate neighborhood concerned, the effect that a new permit may have on such town or neighborhood or on like permits existent in such municipality or neighborhood;

c. the applicant's ability to maintain adequate control against the diversion, theft and loss of marijuana;

d. the applicant's ability to maintain the knowledge, understanding, judgment, procedures, security controls and ethics to ensure optimal safety and accuracy in the dispensing and sale of marijuana; and

e. the extent to which the applicant or any of the applicant's owners have a financial interest in any other permittee, licensee, registrant, or other applicant currently or previously credentialed by the board; and

f. Any other reason provided by any federal law or rule or state law or rule that is not inconsistent with R.S. 40:1046 or 40:1047 or this Subchapter.

16. Following their evaluation of the applications for a marijuana pharmacy permit, the committee shall develop a recommendation for presentation to the board at the board's next meeting. The board may accept the committee's recommendation, select an alternative applicant, reject all of the applicants, or return all the applicants to the committee for their reconsideration.

17. The board may disqualify any applicant who:

a. submits an incomplete, false, inaccurate, or misleading application;

b. fails to submit an application by the published deadline; or

c. fails to pay all applicable fees.

18. The decision of the board to award or not to award a marijuana pharmacy permit to an applicant shall be final.

19. Upon the approval of an application, the board shall issue the marijuana pharmacy permit and state controlled dangerous substance license to the applicant.

20. If an applicant has been awarded a marijuana pharmacy permit and has not commenced operation of such pharmacy within 310 days of being notified of the marijuana pharmacy permit award, the board may, in the board's discretion, rescind such marijuana pharmacy permit, unless such delay was caused by *force majeure*. A marijuana pharmacy shall be deemed to have commenced operation if

the pharmacy is capable of operating in accordance with the applicant's approved application. In the event a marijuana pharmacy permit is rescinded pursuant to this Subsection, the board shall award a marijuana pharmacy permit by selecting among the qualified applicants who applied for the marijuana pharmacy permit that was rescinded. If no other qualified applicant applied for such marijuana pharmacy permit or satisfied the criteria for awarding a permit, the board shall publish, in accordance with this Section, a notice of open applications for marijuana pharmacy permits.

B. Application for Renewal of Permit

1. All marijuana pharmacy permits expire at midnight on December 31 of every year, regardless of the date of its initial issuance.

2. The owner's managing officer and pharmacist-in-charge of the marijuana pharmacy permit shall complete, sign and date a permit renewal application form supplied by the board, and further, shall include all information requested on the form and attach the pharmacy permit renewal fee and state controlled dangerous substance license renewal fee authorized in R.S. 37:1184 and the prescription monitoring program fee authorized in R.S. 40:1013, and further, shall submit the renewal application package to the board office prior to the expiration date of the pharmacy permit.

3. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fees.

4. In the event the pharmacy does not submit a properly completed renewal application form and fee to the board prior to the expiration of the permit, the permit shall be rendered null and void. A marijuana pharmacy shall not operate with an expired permit. Evidence it has done so will provide sufficient basis for the board to discipline the permit for violation of R.S. 37:1241(12).

5. An application for the late renewal of an expired (lapsed) marijuana pharmacy permit that is received in the board office no later than 30 days after the expiration date of the permit may be processed by the board staff, provided the appropriate delinquent fee authorized in R.S. 37:1184 is included with the application.

6. A marijuana pharmacy permit not renewed by 30 days after the expiration date shall be automatically terminated by the board.

7. An application for the reinstatement of a terminated marijuana pharmacy permit shall be referred to the board's reinstatement committee for its consideration.

C. Application for Reinstatement of Terminated, Suspended, or Revoked Marijuana Pharmacy Permits

1. The applicant shall complete an application form for this specific purpose supplied by the board; the application shall require the inclusion of the annual renewal fee, the delinquent fee, the administrative hearing fee, and the reinstatement fees authorized in R.S. 37:1184 and the program fee authorized in R.S. 40:1013.

2. An application for the reinstatement of a marijuana pharmacy permit previously terminated, suspended or revoked by the board may only be approved following a preliminary hearing to determine whether the reinstatement of the permit is in the public's best interest.

D. Maintenance of Marijuana Pharmacy Permit

1. A marijuana pharmacy permit is valid only for the entity or person to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises other than the business location recorded thereon.

2. A duplicate or replacement permit shall be issued upon the written request of the licensee and payment of the fee authorized in R.S. 37:1184. A duplicate or replacement license shall not serve or be used as an additional or second license.

3. Prior to any person affiliating with a marijuana pharmacy, including any change in the ownership of the permit, such person shall comply with the credentialing requirements of the board. No person shall commence their affiliation with a marijuana pharmacy until approved by the board.

4. Prior to making any change in the marijuana pharmacy's name or trade name, the owner of the permit shall notify the board and request approval of the contemplated name or trade name. The board shall reasonably accommodate such requests, unless there is cause not to do so (e.g., duplicative or misleading names). The marijuana pharmacy shall not change its name or trade name until approved by the board.

5. Prior to any modification, remodeling, expansion, reduction, other physical, non-cosmetic alteration of the marijuana pharmacy, the owner of the permit shall notify the board and request approval of the contemplated change(s). The board shall reasonably accommodate such request, unless there is cause not to do so (e.g., inconsistent with operating requirements). The marijuana pharmacy shall not make such changes until approved by the board.

6. Prior to any change in the location of a marijuana pharmacy, the owner of the permit shall submit an application form for that purpose supplied by the board and pay the appropriate fee authorized in R.S. 37:1184. The board may require an inspection of the new location prior to the issuance of the permit for the new location. No marijuana pharmacy shall commence operation in a new location until approved by the board.

7. The owner of the pharmacy permit shall notify the board no later than 10 days following a change in the pharmacist-in-charge for the marijuana pharmacy permit.

8. The owner of the pharmacy permit shall notify the board no later than 10 days following a change in the owner's managing officer for the marijuana pharmacy permit.

9. In the event a marijuana pharmacy contemplates permanent closure, the pharmacist-in-charge shall notify the board in accordance with the rules governing the permanent closure of a pharmacy as described in Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1544 (August 2017).

§2449. Marijuana Pharmacy Personnel; Therapeutic Marijuana Designation

A. No person shall be employed by, or affiliated with, a marijuana pharmacy prior to their eighteenth birthday.

B. The owner's managing officer and all persons holding a professional credential from the board shall first obtain a therapeutic marijuana (TM) designation from the board before affiliating with a marijuana pharmacy.

C. The board may issue a TM designation to a person who has filed the application for that designation supplied by the board and has completed a criminal background check for the board within the two-year period prior to the date of the application for the TM designation, and that person:

1. has been listed as an owner's managing officer on an application for a marijuana pharmacy permit, or on a request to become a replacement owner's managing officer for an existing marijuana pharmacy permit; or

2. holds one of the following professional credentials issued by the board (pharmacist, pharmacy intern, or certified pharmacy technician) and further, that professional credential was issued by the board at least two years prior to the date of the application for the TM designation, is in active status and has not been disciplined by the board within the two-year period prior to the date of the application for the TM designation.

D. The board may restrict, suspend, or revoke a TM designation for cause, but only pursuant to the Administrative Procedure Act.

E. No pharmacist, pharmacy intern, or certified pharmacy technician may practice within a marijuana pharmacy in the absence of an active professional credential, an active TM designation, as well as access privileges to the state prescription monitoring program. A pharmacist may elect to not allow a pharmacy intern or pharmacy technician to function as his delegate with respect to access privileges to the state prescription monitoring program, but the pharmacist shall have such access. A pharmacy technician candidate shall not practice in a marijuana pharmacy.

F. A pharmacist shall first acquire a pharmacist-in-charge (PIC) privilege, as described in §1105 of this Part, and the TM designation, as described in this Section, before accepting an appointment as the PIC of a marijuana pharmacy.

1. The PIC of the marijuana pharmacy shall comply with the requirements of §1105 of this Part.

2. The PIC shall be responsible for notice to the board of all pharmacists, pharmacy interns, and pharmacy technicians practicing at the marijuana pharmacy. The PIC shall cause such notice to be received in the board office in written form (mail, fax, or electronic mail) no later than 10 days after the arrival or departure of the pharmacist, pharmacy intern, or pharmacy technician.

G. The PIC shall insure and document the initial and continuing competency of the entire professional staff to provide the pharmacy care services rendered at the marijuana pharmacy. At a minimum, the PIC shall provide access to education and training in the following domains:

1. policies and procedures of the pharmacy, especially those relating to the tasks and functions that employee is expected to perform;

2. professional conduct, ethics, and patient confidentiality; and

3. developments in the therapeutic use of marijuana. Further, the PIC shall document such education and training, provide such records to the board when requested, and retain such records for at least two years after the employee disassociates with the pharmacy.

H. The PIC shall comply with the professional supervision rules and ratios found in Chapter 7 (pharmacy interns) and Chapter 9 (pharmacy technicians) of this Part.

I. In addition to the scope of practice limitations found in Chapter 9 of this Part, pharmacy technicians practicing in a marijuana pharmacy shall not:

1. consult with a patient or the patient's caregiver regarding marijuana or other drugs, either before or after marijuana has been dispensed, or regarding any medical information contained in a patient medication record;

2. consult with the physician who issued the recommendation/prescription/order for marijuana to the patient, or the physician's agent, regarding a patient or any medical information pertaining to the patient's marijuana or any other drug the patient may be taking;

3. interpret the patient's clinical data or provide medical advice;

4. perform professional consultations with physicians, nurses, or other health care professionals or their authorized agents; or

5. determine whether a different brand or formulation of marijuana should be dispensed for the marijuana product or formulation recommended/prescribed/ordered by the physician or requested by the patient or his caregiver.

AUHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1546 (August 2017).

§2451. Operation of Marijuana Pharmacy

A. No person may operate a marijuana pharmacy without a marijuana pharmacy permit issued by the board, and further, that permit shall be in active or restricted status. A pharmacist shall be on duty at all times during the regular open hours of the marijuana pharmacy.

B. A marijuana pharmacy shall not dispense marijuana from, obtain marijuana from, or transfer marijuana to, a location outside of the state of Louisiana.

C. A marijuana pharmacy shall not obtain, cultivate, deliver, transfer, transport, sell or dispense marijuana except:

1. it may acquire marijuana from an authorized producer pursuant to the provisions of R.S. 40:1046; and

2. it may dispense and sell marijuana to a patient with a recommendation/prescription/order for such marijuana or the patient's caregiver.

D. No person at a marijuana pharmacy shall provide marijuana samples.

E. A marijuana pharmacy shall sell marijuana products only in a secure and light-resistant container. Nothing herein shall preclude a pharmacist from compounding a marijuana product appropriate for his patient.

F. Only a pharmacist may dispense marijuana, and only a pharmacist, pharmacy intern, or pharmacy technician may sell marijuana to patients and caregivers. A pharmacy intern or pharmacy technician may assist, under the direct supervision of a pharmacist, in the dispensing of marijuana.

G. A marijuana pharmacy shall place all products sold to the patient or caregiver in an opaque package that shall not indicate the contents of the package, the originating facility or in any other way cause another person to believe that the package may contain marijuana.

H. A marijuana pharmacy shall not permit any person to enter the prescription department unless that person's responsibilities necessitate access to the department and then for only as long as necessary to perform the person's job duties.

I. While inside the pharmacy, all pharmacy employees shall wear name tags or similar forms of identification that clearly identify them to the public, including their position at the pharmacy.

J. A marijuana pharmacy shall be open for qualifying patients and primary caregivers to purchase marijuana products for a minimum of 10 hours per week.

1. A marijuana pharmacy that closes during its normal hours of operation shall implement procedures to notify patients and caregivers of when the marijuana pharmacy will resume normal hours of operation. Such procedures may include, but are not limited to, telephone system messages and conspicuously posted signs.

2. In the event the pharmacist on duty leaves the prescription department, the prescription department shall comply with the provisions of §1109 (temporary absence) or §1111 (closure) of this Part.

K. A marijuana pharmacy shall provide information to patients and caregivers regarding the possession and use of marijuana. Such informational material shall include information related to:

1. limitations on the right to possess and use marijuana pursuant to R.S. 40:1046;

2. safe techniques for proper use of marijuana and paraphernalia;

3. alternative methods and forms of consumption by which one can use marijuana;

4. signs and symptoms of substance abuse; and

5. opportunities to participate in substance abuse programs.

L. The marijuana pharmacy shall establish, implement and adhere to a written alcohol-free, drug-free and smoke-free work place policy, which shall be available to the board upon request.

M. The receipt of all deliveries from producers shall be carried out under the direct supervision of a pharmacist who shall be present to accept the delivery. Upon delivery, the marijuana shall immediately be placed in an approved safe or approved vault within the pharmacy where marijuana is stored.

N. No marijuana pharmacy shall sell anything other than marijuana products; however, the pharmacy may elect to sell over-the-counter (OTC) medications, durable medical equipment (DME), and other retail products from the same premises but outside the prescription department.

O. No marijuana shall be administered on the premises of a marijuana pharmacy, except during patient counseling, education or training.

P. No person associated with a marijuana pharmacy shall enter into any agreement with a physician or health care facility concerning the provision of services or equipment that may adversely affect any person's freedom to choose the marijuana pharmacy at which the patient or caregiver will purchase marijuana.

Q. No marijuana shall be sold, dispensed or distributed via a delivery service or any other manner outside of a marijuana pharmacy, except that a caregiver may deliver marijuana to the caregiver's patient.

R. No marijuana shall be sold when the marijuana pharmacy is closed and not open for business.

S. Board representatives, local law enforcement or other federal, state or local government officials may enter any area of a marijuana pharmacy if necessary to perform their governmental duties.

T. Right of Inspection. The board, or its agent, representative, or designee, is authorized:

1. to enter a marijuana pharmacy at any time during its hours of operation, or any other place, including a vehicle, wherein marijuana is held, dispensed, sold, or otherwise disposed of;

2. to inspect within reasonable limits and in a reasonable manner, such place and all pertinent equipment, finished and unfinished material, containers and labeling, and all things therein, including records, files, financial data, sales data, shipping data, pricing data, employee data, research, papers, processes, controls and facilities; and

3. to inventory any stock of marijuana therein and obtain samples of any marijuana or marijuana product, any labels or containers for marijuana, paraphernalia, and of any finished and unfinished material.

U. Inspection of Records. Every person required to prepare, obtain or keep records, logs, reports or other documents, and every person in charge, or having custody, of such documents shall maintain such documents in an auditable format for no less than two years. Upon request, such person shall make such documents immediately available for inspection and copying by the board or its authorized representative. In complying with this Section, no person shall use a foreign language or codes or symbols to designate marijuana types or persons in the keeping of any required document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1547 (August 2017).

§2453. Security Requirements for Marijuana Pharmacies

A. A marijuana pharmacy shall:

1. store all marijuana in an approved safe or vault, as defined in this Subchapter, and in such a manner as to prevent diversion, theft, or loss;

2. maintain all marijuana in a secure area or location accessible only to specifically authorized employees, which shall include only the minimum number of employees essential for efficient operation;

3. not permit any person less than eighteen years of age to enter the prescription department, with the exception of patients being counseled by the pharmacist;

4. keep all approved safes and vaults securely locked and protected from entry, except for the actual time required to remove or replace marijuana;

5. keep all locks and security equipment in good working order;

6. not allow keys to be left in the locks and not store or place keys in a location accessible to persons other than specifically authorized employees;

7. not allow other security measures, such as combination numbers, passwords or electronic or biometric

security systems, to be accessible to persons other than specifically authorized employees;

8. keep the pharmacy securely locked and protected from entry by unauthorized employees;

9. keep the outside perimeter of the pharmacy premises well-lit; and

10. post a sign at all entry ways into any area of the pharmacy containing marijuana, including a room with an approved safe or vault, which sign shall be a minimum of 12 inches in height and 12 inches in width which shall state: "Do Not Enter—Limited Access Area—Access Limited to Authorized Employees Only" in lettering no smaller than 1/2 inch in height.

B. All pharmacies shall have an adequate security system to prevent and detect diversion, theft or loss of marijuana utilizing commercial grade equipment, which shall include at a minimum:

1. a perimeter alarm;

2. motion detector;

3. video cameras in all areas that may contain marijuana and at all points of entry and exit, which shall be appropriate for the normal lighting conditions of the area under surveillance. The pharmacy shall direct cameras at all approved safes and vaults, dispensing areas, marijuana sales areas and any other area where marijuana is being stored or handled. At entry and exit points, the pharmacy shall angle cameras so as to allow for the capture of clear and certain identification of any person entering or exiting the pharmacy;

4. 24-hour recordings from all video cameras, which the pharmacy shall make available for immediate viewing by the board or its authorized representative upon request and shall retain for at least 30 days. If a pharmacy is aware of a pending criminal, civil, or administrative investigation or legal proceeding for which a recording may contain relevant information, the pharmacy shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the pharmacy that it is not necessary to retain the recording:

a. all video recordings shall allow for the exporting of still images in an industry standard image format, including .jpg, .bmp, and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. A pharmacy shall erase all recordings prior to disposal or sale of the pharmacy;

5. *duress alarm*, which for purposes of this Subsection means a silent security alarm system signal generated by the entry of a designated code in into an arming station in order to signal that the alarm user is being forced to turn off the system;

6. *panic alarm*, which for purposes of this Subsection means an audible security alarm system signal generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring a law enforcement response;

7. *holdup alarm*, which for purposes of this Subsection means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress;

8. *automatic voice dialer*, which for purposes of this Subsection means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch;

9. a failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to the pharmacy within five minutes of the failure, either by telephone, email, or text message;

10. the ability to immediately produce a clear color still photo that is a minimum of 9600 dpi from any camera image (live or recorded);

11. a date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture; and

12. the ability to remain operational during a power outage.

C. A pharmacy shall maintain all security system equipment and recordings in a secure location so as to prevent theft, loss, destruction, or alterations.

1. A pharmacy shall keep all on-site surveillance rooms locked and shall not use such rooms for any other function.

2. A pharmacy shall limit access to surveillance areas to persons that are essential to surveillance operations, law enforcement agencies, security system service employees, and the board's authorized representative.

3. A pharmacy shall make available to the board upon request a current list of authorized employees and service employees that have access to the surveillance room.

D. A pharmacy shall keep all security equipment in good working order and shall test such equipment no less than two times per year.

E. When a pharmacy presents special security issues, such as an extremely large stock of marijuana, exposed handling or unusual vulnerability to, or actual, diversion, theft or loss, the board may require additional safeguards, including but not limited to, a supervised watchman service.

F. Any marijuana not stored in compliance with this Section, or stored at a location other than that for which the pharmacy permit was issued, shall be subject to embargo or seizure by the board.

G. In the event any marijuana pharmacy permit is revoked, suspended, or not renewed, the pharmacy shall dispose of its entire stock of marijuana in accordance with the disposal provisions in this Subchapter.

H. If a pharmacy has provided other safeguards which can be regarded in total as an adequate substitute for some element of protection required of the pharmacy, such added protection may be taken into account by the board in evaluating overall required security measures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1548 (August 2017).

§2455. Reportable Security Events

A. Upon becoming aware of discrepancies identified during inventory, diversion, theft, loss, or unauthorized destruction of any marijuana, or of any loss or unauthorized alternation of records related to marijuana or patients, a pharmacy shall immediately notify:

1. appropriate law enforcement authorities; and
2. the board.

B. A pharmacy shall provide the written notice to the board by way of a signed statement which details the circumstances of the event, including an accurate inventory of the quantity and brand names of the marijuana diverted, stolen, lost, destroyed, or damaged, along with confirmation that the local law enforcement authorities were notified. A pharmacy shall make such notice no later than 24 hours after discovery of the event.

C. A pharmacy shall notify the board no later than the next business day, followed by written notification no later than 10 business days, of any of the following:

1. an alarm activation or other event that requires response by public safety personnel;
2. a breach of security;
3. the failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours; and
4. corrective measures taken, if any.

D. A pharmacy shall maintain and shall make available all documentation related to an occurrence that is reportable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017).

§2457. Standards of Practice

A. Environmental Standards

1. The prescription department shall be of sufficient size commensurate with the nature and scope of practice. The space occupied by the prescription department shall be restricted to authorized personnel only, as determined by the pharmacist-in-charge, and shall not be accessible to the general public.

2. The prescription department shall contain sufficient fixtures, equipment, and supplies commensurate with the nature and scope of practice for that pharmacy.

3. The prescription department shall include a sink with a hot and cold water supply, exclusive of restroom facilities, with approved sewage disposal.

4. All areas where drugs and devices are stored shall be dry, well-lighted, well-ventilated, and maintained at temperatures which will ensure the integrity of drugs during their storage and prior to their dispensing as stipulated by the *United States Pharmacopeia* and/or manufacturer's or distributor's product labeling unless otherwise indicated by the board.

5. The prescription department shall be secured by one or more physical barriers with suitable locks and a monitored alarm system capable of detecting unauthorized entry, and further, complies with security requirements identified elsewhere in this Subchapter.

6. Prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information.

B. Minimum Staffing Requirements

1. There shall be at least one pharmacist on duty at all times the pharmacy is open for business.

2. Every pharmacist practicing in the pharmacy shall possess a Louisiana pharmacist license in active status, a therapeutic marijuana designation, and access privileges to the state prescription monitoring program.

3. A pharmacy intern may assist the pharmacist in the prescription department, but only when in possession of a Louisiana pharmacy intern registration in active status as well as a therapeutic marijuana designation. The supervising pharmacist may establish a delegate credential for the pharmacy intern in the state prescription monitoring program.

4. A pharmacy technician may assist the pharmacist in the prescription department, but only when in possession of a Louisiana pharmacy technician certificate in active status as well as a therapeutic marijuana designation. The supervising pharmacist may establish a delegate credential for the pharmacy technician in the state prescription monitoring program.

5. No pharmacy technician candidate may practice in a marijuana pharmacy.

6. Additional clerical personnel may also be present at the pharmacy.

C. Operational Standards

1. The marijuana pharmacy shall comply with the provisions of Chapters 11, 25, 27, 29, and 31 of this Part except when this Subchapter grants exceptions or imposes more stringent requirements.

2. In the event the marijuana pharmacy intends to close permanently, the pharmacist-in-charge (PIC) shall comply with the pharmacy closure procedures described in Chapter 11 of this Part, and further, the owner of the pharmacy permit shall not prevent or interfere with the PIC's performance of those tasks.

a. In addition to the other closure requirements, the closing pharmacy shall include in its notice to the board and to the public the identification of the destination pharmacy where the closing pharmacy's prescription records will be transferred. That destination pharmacy shall be the marijuana pharmacy nearest the closing pharmacy, unless otherwise approved by the board.

D. Recordkeeping Requirements

1. Prescription/Recommendation/Order (hereinafter, "request") for Marijuana

a. Authorization for Emergency Dispensing. An emergency situation exists when administration of the marijuana product is necessary for immediate treatment, an appropriate alternate treatment is not available, and the recommending physician cannot reasonably provide a written recommendation. In the case of an emergency situation, a pharmacist may dispense a marijuana product upon receiving oral authorization directly from a recommending physician, provided that:

i. the quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the

emergency period (dispensing beyond the emergency period must be pursuant to a written recommendation signed by the recommending physician);

ii. the oral authorization shall be immediately reduced to written form by the pharmacist and shall contain, at a minimum, the following information:

(a). full name and address of the patient;

(b). drug product name, strength, and dosage form;

(c). quantity of product recommended;

(d). directions for use;

(e). name, address, telephone number, and CDS license number of the recommending physician; and

(f). name of the pharmacist receiving the oral authorization;

iii. if the recommending physician is not known to the pharmacist, he shall make a reasonable effort to determine that the oral authorization came from a physician authorized to recommend marijuana products in Louisiana, which may include a callback to the physician using his telephone number as listed in the telephone directory or other good faith efforts to insure his identity; and

iv. within seven days after authorizing an emergency oral recommendation, the physician shall cause a written recommendation for the emergency quantity authorized to be delivered to the dispensing pharmacist. The recommendation shall have written on its face "Authorization for Emergency Dispensing," and the date of the oral authorization. The written recommendation may be delivered to the pharmacist in person or by mail, but if delivered by mail, it shall be postmarked within the seven day period. Upon receipt, the dispensing pharmacist shall attach this recommendation to the oral emergency authorization which had earlier been reduced to written form. The pharmacist shall notify the board if the recommending physician fails to deliver a written recommendation to him within the required time; failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written recommendation from the recommending physician.

b. In the event the pharmacy receives a request in written form by facsimile, the pharmacy may begin the preparation of the product to be dispensed, but the pharmacist shall not dispense the product until the original form of the request is delivered to him in the pharmacy and he has compared it to the product prepared for dispensing.

c. The written request shall bear the manual signature of the recommending physician. No other form of signature shall be valid, including (but not limited to) stamps, computer generated signatures, or signatures of anyone other than the recommending physician.

d. A request generated, signed, and transmitted in electronic format which is compliant with the standards for electronic prescribing of controlled substances identified in 21 CFR 1311 (or its successor) shall be construed as a validly formatted request.

2. When the pharmacy receives a request for marijuana from a recommending physician in written form, the pharmacist shall cause the form to be scanned and filed using an electronic imaging system in compliance with §1123 of this Part.

3. Request forms (and electronic images thereof) shall be retained on the pharmacy's premises for at least two years after the date of dispensing, and further, shall be readily retrievable upon request by the board.

4. Inventory of Marijuana Product

a. The pharmacist-in-charge shall develop and maintain a perpetual inventory of all marijuana products acquired, held, dispensed, and disposed by the pharmacy.

b. The pharmacy shall access the LMMTS and enter all inventory-related transactions in that system.

c. In the event the pharmacist-in-charge designates an agent to retrieve new marijuana product inventory from the production facility, the pharmacist shall verify the agent is at least 21 years of age and is eligible to drive on public roadways.

d. The pharmacist-in-charge shall conduct an annual inventory of all marijuana products in the possession of the pharmacy on any date which is within one year of the previous annual inventory, and further, shall conduct additional inventory counts on the following occasions:

i. arrival of a new pharmacist-in-charge;

ii. discovery of any significant loss, disappearance, or theft of marijuana product;

iii. departure of a pharmacist-in-charge; and

iv. permanent closure of the pharmacy.

e. Inventory records shall be retained on the pharmacy's premises for at least two years after the most recent entry.

5. The pharmacy shall develop and maintain sufficient records to fully reveal the business transactions related to marijuana products, including their procurement and sale, for the current tax year as well as the two immediately preceding tax years, all of which shall be made available to the board upon request.

6. The board may require any pharmacy or its owners to furnish such information as the board considers necessary for the proper administration of R.S. 40:1046, and may require a financial audit of the business of any marijuana pharmacy, and the expense thereof shall be paid by the marijuana pharmacy.

E. Professional Practice Standards

1. Prior to dispensing any marijuana product to a patient, the pharmacist shall review that patient's records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending physician.

2. Labeling of Marijuana Product Dispensed

a. The pharmacist shall not dispense any marijuana product that does not bear the producer label required by the LDAF, and further, the pharmacy dispensing label shall not overlay or obscure the producer label in any way.

b. The pharmacy's dispensing label shall contain, at a minimum, the following data elements:

i. name and address of the pharmacy dispensing the product;

ii. telephone number or other contact information of the pharmacy dispensing the product;

iii. name of the recommending physician;

iv. name of the patient;

v. date the product was dispensed;

vi. prescription number, which shall be a unique identifier for that specific transaction;

vii. name of the marijuana product, including any concentration, strength, or other identifiers of the marijuana product;

viii. quantity of marijuana dispensed;

ix. directions for use of the product as included in the recommending physician's request;

x. expiration date of the product, which shall not exceed the expiration date determined by the producer of the product; and

xi. other information selected by the dispensing pharmacist to inform the patient as to the best use of the product for the intended purpose.

3. The pharmacist shall perform prospective drug utilization review and shall counsel every patient receiving marijuana product every time it is dispensed, in compliance with the rules on drug utilization review and patient counseling in Chapter 5 of this Part.

4. Reporting transactions to state prescription monitoring program. The pharmacy shall comply with the reporting requirements as found in Chapter 29 of this Part.

5. Disposal of Marijuana Product

a. A pharmacy may refuse to accept the delivery of marijuana product from a producer when it is determined to be misbranded, adulterated, expired, deteriorated, undesired, excess, unauthorized, or unfit for dispensing; however, once accepted by the pharmacy, no marijuana product may be returned to any producer.

b. When the pharmacist determines a marijuana product is no longer suitable for dispensing, the product shall be removed from active dispensing stock and quarantined in the pharmacy pending its disposal, and further, the removal from active dispensing stock shall be recorded in the LMMTS.

c. The pharmacist-in-charge shall render the waste unusable by grinding and incorporating the waste with other ground materials so the resulting mixture is at least 50% non-marijuana waste by volume. Material used to grind with the waste may include:

i. yard waste;

ii. paper waste;

iii. cardboard waste;

iv. plastic waste; or

v. soil or sand.

d. Waste shall be rendered unusable prior to leaving the pharmacy. Waste rendered unusable shall be disposed of by delivery to an approved solid waste facility for final disposition.

i. Examples of acceptable permitted solid waste facilities include:

(a). compost; anaerobic digester;

(b). landfill, incinerator; or

(c). waste-to-energy facility.

e. The pharmacist-in-charge shall prepare a record of each disposal, and that record shall contain, at a minimum, the following information:

i. brand name and other specific identifiers of the marijuana product disposed;

ii. quantity of product disposed;

iii. manner of disposal; and

iv. signatures of the pharmacist-in-charge disposing the product plus at least one witness who is either a credentialed staff member of that pharmacy or an agent of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017).

§2459. Advertising

A. The marijuana pharmacy shall not advertise through any public medium, including but not limited to newspapers, billboards, television, radio, internet, social media, or any other means designed to market its products to the general public.

B. The marijuana pharmacy may market its products through direct mail, brochures, or other means to Louisiana-licensed physicians, but only when such advertising is directed solely to the practitioner and is not available to the general public.

C. Any advertisement permitted in Subsection B of this Section shall not:

1. make any deceptive, false, or misleading assertions or statements regarding any product; or

2. assert that its products are safe because they are regulated by LDAF or the board. The pharmacy may advertise that its products have been tested by an approved laboratory, but shall not assert that its products are safe because they are tested by an approved laboratory.

D. The marijuana pharmacy may attach a maximum of two separate signs to the exterior of the building which identify the business by its business or trade name, provided that neither sign exceeds the size limit of 1,600 square inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1552 (August 2017).

Malcolm J. Broussard
Executive Director

1708#029

RULE

Department of Health
Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Louisiana Health Insurance Premium Payment Program
Behavioral Health Recipient Participation
(LAC 50:I.3103)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Managed Care for Physical and Behavioral Health
Chapter 31. General Provisions
§3103. Recipient Participation

A. - G. ...

H. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in an MCO and cannot voluntarily enroll in an MCO. Individuals who:

a. - e. ...

f. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) Program.

EXCEPTION: This exclusion does not apply to LaHIPP enrollees eligible to receive behavioral health services only through the managed care organizations.

I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:663 (April 2017), LR 43:1553 (August 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

1708#051

RULE

Department of Health
Bureau of Health Services Financing

Pharmacy Benefits Management Program
Provider Participation and Reimbursement
(LAC 50:XXIX.Chapters 1 and 9)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXIX.Chapters 1 and 9 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 XXIX. Pharmacy
Chapter 1. General Provisions
§105. Medicaid Pharmacy Benefits Management System Point of Sale—Prospective Drug Utilization Program

A. - G. ...

H. Point-of-Sale Prospective Drug Utilization Review System. This on-line point-of-sale system provides electronic claims management to evaluate and improve drug utilization quality. Information about the patient and the drug will be analyzed through the use of therapeutic modules in accordance with the standards of the National Council of Prescription Drug Programs. The purpose of prospective drug utilization review is to reduce duplication of drug therapy, prevent drug-to-drug interactions, and assure appropriate drug use, dosage and duration. The prospective modules may screen for drug interactions, therapeutic duplication, improper duration of therapy, incorrect dosages, clinical abuse/misuse and age restrictions. Electronic claims submission inform pharmacists of potential drug-related problems and pharmacists document their responses by using interventions codes. By using these codes, pharmacists will document prescription reporting and outcomes of therapy for Medicaid recipients.

I. - I.4. ...

5. Prescribers and pharmacy providers are required to participate in the educational and intervention features of the pharmacy benefits management system.

J - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S, 46:153, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017).

§109. Medicare Part B

A. The Department of Health, Bureau of Health Services Financing pays the full co-insurance and the Medicare deductible on outpatient pharmacy claims for services reimbursed by the Medicaid Program for Medicaid recipients covered by Medicare Part B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017).

§111. Copayment

A. - A.2.d. ...

B. The following population groups are exempt from copayment requirements:

1. - 3. ...

4. Native Americans and Alaskan Eskimos;

5. ...

6. home and community-based services waiver recipients.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017).

Chapter 9. Methods of Payment

Subchapter A. General Provisions

§901. Definitions

* * *

Usual and Customary Charge—the price the provider most frequently charges the general public for the same drug.

* * *

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 32:1061 (June 2006), amended LR 34:87 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1184 (June 2017), LR 43:1554 (August 2017).

Subchapter B. Professional Dispensing Fee

§915. General Provisions

A. The professional dispensing fee shall be set by the department and reviewed periodically for reasonableness, and when deemed appropriate by the Medicaid Program, may be adjusted considering such factors as fee studies or surveys.

Adjustment Factors—Repealed.

Base Rate—Repealed.

Base Rate Components—Repealed.

Maximum Allowable Overhead Cost—Repealed.

Overhead Year—Repealed.

B. Provider participation in the Louisiana cost of dispensing survey shall be mandatory. A provider's failure to cooperate in the survey shall result in his/her removal from participation as a provider of pharmacy services in the Medicaid Program. Any provider removed from participation shall not be allowed to re-enroll until a professional dispensing fee survey document is properly completed and submitted to the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1554 (August 2017).

§917. Maximum Allowable Overhead Cost Calculation

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 36:1559 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:1554 (August 2017).

§919. Parameters and Limitations

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 36:1560 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:1554 (August 2017).

§921. Interim Adjustment to Overhead Cost

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 36:1560 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:1554 (August 2017).

§923. Cost Survey

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 36:1560 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:1554 (August 2017).

§925. Dispensing Fee

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 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:1554 (August 2017).

Subchapter D. Maximum Allowable Costs

§949. Fee for Service Cost Limits

A. - A.2. ...

a. For purposes of these provisions, the term *general public* does not include any person whose prescriptions are paid by third-party payors, including health insurers, governmental entities, and Louisiana Medicaid.

i.-iii. Repealed.

B. - B.3. ...

a. For purposes of these provisions, the term *general public* does not include any person whose prescriptions are paid by third-party payors, including health insurers, governmental entities, and Louisiana Medicaid.

i.-iii. Repealed.

C. - D.2.c. ...

E. Fee-for-Service 340B Purchased Drugs. The department shall make payments for self-administered drugs that are purchased by a covered entity through the 340B program at the actual acquisition cost which can be no more than the 340B ceiling price plus the professional dispensing fee, unless the covered entity has implemented the Medicaid carve-out option, in which case 340B drugs should not be billed to or reimbursed by Medicaid. 340B contract pharmacies are not permitted to bill 340B stock to Medicaid. Fee-for-service outpatient hospital claims for 340B drugs shall use a cost to charge methodology on the interim and settled at cost during final settlement. Federally qualified health center (FQHC) and rural health clinic (RHC) claims for physician administered drugs shall be included in the all-inclusive T1015 encounter rate.

F. Fee-for-Service Drugs. Drugs acquired at federal supply schedule (FSS) and at nominal price shall be reimbursed at actual acquisition cost plus a professional dispensing fee.

G. - K. ...

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 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1185 (June 2017), LR 43:1554 (August 2017).

Subchapter E. 340B Program

§961. Definitions

* * *

Contract Pharmacy—a pharmacy under contract with a covered entity that provides services to the covered entity's patients, including the service of dispensing the covered entity's 340B drugs, in accordance with Health Resources and Services Administration (HRSA) guidelines (75 FR 10272, March 5, 2010). Contract pharmacies are not allowed to bill Medicaid for pharmacy claims.

* * *

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 32:1066 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1186 (June 2017), LR 43:1555 (August 2017).

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. Effective for dates of service on and after October 10, 2009, the reimbursement to pharmacies for immunization administration (intramuscular or intranasal) performed by qualified pharmacists, is a maximum of $15.22. This fee includes counseling, when performed.

B. 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 36:1783 (August 2010), amended LR 40:82 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1555 (August 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

1708#052

RULE

Department of Revenue
Office of Alcohol and Tobacco Control

Alcohol Beverage Container Label Registration
(LAC 55:VII.333)

Under the authority of R.S. 26:793(D) and in accordance with the provisions of the Administrative Procedure Act, R.S 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control has adopted LAC 55:VII.333 relative to alcoholic beverage container label registration.

The regulation is offered in accordance with the mandate of Act 393 of the 2015 Regular Session of the Louisiana Legislature for the commissioner to provide by Rule for the registration, including submission and review of the container label, of all alcoholic beverages prior to being sold in this state.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor

Chapter 3. Liquor Credit Regulations

§333. Regulation XIV—Alcoholic Beverage Container Label Registration

A. The purpose of this regulation is to promote the safety and welfare of Louisiana consumers and commerce by prohibiting alcoholic beverage labels that are deceptive or likely to mislead the consumer with regards to the nature of the product or quantity thereof; to ensure that the consumer is provided with adequate information as to the identity and quality of the products, the alcoholic content thereof, the net contents of the package, and the manufacturer or bottler or importer of the product; and to prohibit statements on alcoholic beverage labels that are disparaging of a competitor's products or are false, misleading, obscene, or indecent.

B. No alcoholic beverage manufacturer, supplier, or importer shall sell or ship or deliver for sale or shipment, or otherwise introduce in Louisiana commerce, any distilled spirits, wine, cider, mead, malt beverages, or any other product having an alcohol content of more than 1/2 of 1 percent by volume (unless expressly excepted in R.S. 26:3), unless all the following requirements have been met:

1. the alcoholic beverage manufacturer, supplier, or importer holds a valid manufacturer's permit with the Office of Alcohol and Tobacco Control;

2. each product is packaged in containers that comply with any applicable standard of fill and casing requirements set out in title 26 of the *Louisiana Revised Statutes*;

3. each product is labeled in conformity with all requirements of the applicable part of title 27 of the *Code of Federal Regulations*;

4. each product label has been registered in Louisiana via the electronic submission system approved by the Office of Alcohol and Tobacco Control by a manufacturer holding an active Louisiana manufacturer's permit; and

5. if product label registration with the Alcohol and Tobacco Tax and Trade Bureau is not required, each product label has been approved by the Office of Alcohol and Tobacco Control.

C. All alcoholic beverage product label registrations shall be renewed annually by June 30 via the electronic submission system approved by the Office of Alcohol and Tobacco Control.

D. The submission of a certificate of label approval prepared in compliance with the requirements of the Alcohol and Tobacco Tax and Trade Bureau shall constitute satisfactory compliance for the registration of products and labels pursuant to this Section, and such registration shall become effective upon submission of a completed application.

E. No manufacturer licensed in Louisiana shall sell or offer for sale to any wholesaler any alcoholic beverage

product that does not have a valid and current label registration with the Office of Alcohol and Tobacco Control.

F. No person or entity shall alter, destroy, obliterate, or remove any mark, brand, or label upon distilled spirits, wine, cider, mead, malt beverages, or any other product having an alcohol content of more than 1/2 of 1 percent by volume (unless expressly excepted in R.S. 26:3) held for sale in Louisiana commerce or after shipment therein, except as authorized by federal law or except pursuant to federal regulation authorizing relabeling for purposes of compliance with the requirements of federal or state law or regulation and submitted to the Office of Alcohol and Tobacco Control for advance approval.

G. No retail dealer operating in Louisiana shall receive, sell, or offer for sale any alcoholic beverage product that misrepresents the brand, identity, age or origin of the beverage.

H. All alcoholic beverage brands and registered labels sold or offered for sale in Louisiana must be owned by a manufacturer licensed in Louisiana.

I. Violations of this Section may result in

1. reporting to the Alcohol and Tobacco Tax and Trade Bureau;

2. the denial of a Louisiana alcoholic beverage permit; and

3. the imposition of any penalty permissible under Louisiana law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:793(D).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 43:1555 (August 2017).

Juana Marine-Lombard
Commissioner

1708#011

RULE

Department of Revenue
Office of Alcohol and Tobacco Control

Direct Shipment of Sparkling Wine or Still Wine
(LAC 55:VII.335)

Under the authority of R.S. 26:359 and in accordance with the provisions of the Administrative Procedure Act, R.S 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control has adopted LAC 55:VII.335 relative to the direct shipment of sparkling and still wine by manufacturers, wine producers, or retailers to consumers in Louisiana and relative to registration by transporters of sparkling and still wine to consumers in Louisiana.

The adoption of the above-referenced Rule is offered under the authority delegated by R.S. 26:359 to provide for reporting requirements of all manufacturers, wine producers, or retailers who ship wine directly to consumers in Louisiana and for reporting requirements of transporters of sparkling and still wine to consumers in Louisiana.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§335. Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana

A. Any manufacturer, wine producer or retailer of sparkling wine or still wine domiciled outside of Louisiana must obtain a permit from the commissioner as required by R.S. 26:359 prior to engaging in the direct shipment of sparkling wine or still wine to any consumer in Louisiana.

B. Access to Records. In order to determine compliance with R.S. 26:359, all manufacturers, wine producers, and retailers that direct ship sparkling wine or still wine to consumers shall make available to the commissioner all books, invoices, and records concerning the direct shipment of wine to consumers in Louisiana immediately upon request. This includes but is not limited to the following:

1. all invoices contained on the packages of wine required by R.S. 26:359(B)(1)(g);

2. all oral or written agreements with wholesalers licensed by the state of Louisiana;

3. all invoices and other records revealing the labels and brands sold to wholesalers licensed by the state of Louisiana;

4. a copy of any and all original applications and renewal applications submitted to the Louisiana Department of Revenue by manufacturers, wine producers and retailers domiciled outside of Louisiana seeking authority to ship sparkling wine or still wine directly to consumers in Louisiana, including any supporting documentation submitted in connection with such applications;

5. a copy of the monthly statements submitted to the Department of Revenue by manufacturers, wine producers and retailers domiciled outside of Louisiana pursuant to R.S. 26:359(D), including any supporting documentation submitted in connection with such monthly statements; and

6. a copy of all records with the transporters of such sparkling wine or still wine pertaining to such shipments to Louisiana consumers.

C. Inspection of Premises. The commissioner may inspect any premise where such sparkling wine or still wine that is sold or shipped directly to consumers in Louisiana are stored, sold or handled. No manufacturer, wine producer, or retailer who ships wine directly to Louisiana consumers may refuse to allow such inspection.

D. Payment of Taxes. Any manufacturer, wine producer, or retailer must timely report and remit all applicable excise and sales and use taxes due to the state of Louisiana. Failure to do so shall subject their permit to penalties as set forth in R.S. 26:96 and R.S. 26:292, including but not limited to suspension or revocation of the permit.

E. Monthly Reports to LDOR. Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana must concurrently provide the commissioner with a copy of the monthly statements submitted to the Department of Revenue pursuant to R.S. 26:359(D), including all supporting documentation.

F. Authorized Recipients/Quantities. Sparkling wine or still wine may only be shipped directly to a consumer 21 years of age or older for their personal consumption. It may not be sold or shipped to a retailer, solicitor, broker, or any other agent of the manufacturer, wine producer, or retailer in the state for resale or distribution. The total amount of sparkling wine or still wine shipped in 750 milliliter bottles shall not exceed 144 per adult person per household address per calendar year.

G. Identification of Shipments. All shipments made by an authorized manufacturer or retailer of sparkling wine or still wines that are shipped directly to any consumer in Louisiana shall be identified as follows.

1. The words "Alcoholic Beverage—Direct Shipment" shall be marked and clearly visible on both the front and back of the package in lettering measuring at least 1/4 inch in height.

2. The words "Unlawful to Sell or Deliver to Anyone under 21 Years of Age" must be clearly visible on the front of the package, in lettering measuring at least 1/4 inch in height.

3. The manufacturer's, wine producer's or retailer's Louisiana ATC permit number and the manufacturer's, wine producer's or retailer's out-of-state license number, if domiciled outside of Louisiana, shall be clearly displayed on the front of the package.

4. All shipments shall have affixed to the exterior packaging a notification to the person making the delivery that a signature of the recipient is required prior to delivery. The notice should be at least 3-inch by 3-inch and contain words similar to the following.

A T T E N T I O N Courier
(Signature Required) Deliver to RECIPIENT address only. No indirect delivery. Disregard any Signature Release. Recipient MUST be at least 21 years old, and not show signs of intoxication.

H. Direct Ship Permit Renewals, Penalty. Permits for the direct shipment of wine as required by R.S. 26:359(B)(3) and (4) shall expire every year on December 31. Failure to timely file a renewal permit shall result in the imposition of penalties as provided for by R.S. 26:88 and R.S. 26:285.

I. Use of Approved Transporters Only. Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana and manufacturers, wine producers or retailers domiciled inside of Louisiana may only sell or ship wine through transporters who are registered with the commissioner pursuant to R.S. 26:359(D)(3). Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana and manufacturers, wine producers or retailers domiciled inside of Louisiana must notify the commissioner within 30 days of any change of transporters utilized.

J. Transporters Reporting Obligations. Every transporter of sparkling or still wine for direct shipment into or out of the state shall make and file a monthly report to the commissioner at its office in Baton Rouge, LA on or before the fifteenth day of the month following the calendar month for which the report is made. The report shall give an accurate account of all sparkling and still wine transported by the transporter during the month for which the report is made. Each report shall contain, at a minimum, the following for every shipment:

1. date of shipment;
2. name of shipper;
3. address of shipper;
4. name of recipient;
5. address of recipient;
6. tracking identification number;
7. date of delivery;
8. total package weight;
9. quantity of each shipment; and
10. volume of sparkling or still wine shipped (in milliliters or liters).

K. If no shipments were made by a transporter for a month, the transporter must submit a report to the commissioner stating that no such shipments were made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:541.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 43:1556 (August 2017).

Juana Marine-Lombard
Commissioner

1708#012

RULE

Department of Revenue
Office of Alcohol and Tobacco Control

Online Grocery Pickup (LAC 55:VII.337)

Under the authority of R.S. 26:359 and in accordance with the provisions of the Administrative Procedure Act, R.S 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has adopted LAC 55:VII.337 relative to online grocery pickup (OGP) which is a service offered by retail dealers to consumers to place online orders of product(s) for pick-up at a designated assigned OGP holding area. If OGP orders contain any alcoholic beverage products, then certain procedures shall be required prior to pick-up.

The adoption of this Rule is offered under the authority delegated by R.S. 26:359 to provide for reporting requirements of all retailers who provide alcohol products to consumers in Louisiana.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§337. Online Grocery Pickup

A. Retail dealers shall not operate an online grocery pickup of alcoholic beverage products except where expressly authorized in writing by the commissioner.

B. A retail dealer shall designate a special area for online grocery pickup whereby orders placed online that includes any alcoholic beverage products shall be placed in a bin located within the designated OGP holding area.

C. All online orders containing alcoholic beverage and non-alcoholic beverage items must be segregated whereby all alcoholic beverage products are to be placed in separate bags distinctly labeled "ALCOHOL."

D. A server who is solely responsible for completing online grocery pick-up shall be 21 years of age or older and shall be required to attend an approved server training course prior to employment. Server shall be designated as a curbside associate.

E. A retail dealer shall provide proper training to any and all curbside associate(s). Such training shall require a curbside associate to verify online orders, retrieve purchased products from the bin located in the OGP designated area, and verify proper identification prior to completion of OGP transaction.

F. Server or curbside associate shall make direct contact with customer and verify the customer's age with the customer's identification card which shall on its face establish the age of the person as 21 years old or older and that there is no reason to doubt the authenticity or correctness of the identification.

G. Retail dealer shall maintain an ATC-approved handheld identification device that shall by utilized by the server or curbside associate to assist in identifying the customer's proper age prior to completion of all OGP orders.

H. The OGP hours shall be limited only during retail dealer's regular hours of operation. Online ordering and pickup shall only be available between 8 a.m. to 10 p.m.

I. OGP orders with alcoholic beverage products shall have a minimum total OGP purchase price of $30 and shall not be comprised solely of alcoholic beverage products.

J. Holder of a class A or class C permit is prohibited from providing OGP services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:541.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 43:1557 (August 2017).

Juana Marine-Lombard
Commissioner

1708#013

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Experimental Fisheries Program (LAC 76:VII.701)

The secretary of Wildlife and Fisheries has amended rules and regulations in the Experimental Fisheries Program (R.S. 56:571). The changes to the Experimental Fisheries Program enable the department more flexibility in development of new fishing gears and technology.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 7. Experimental Fisheries Program
§701. Permits

A. Purpose. Under Louisiana law, only gear which is legally sanctioned may be used in a fishery. All other types of gear require permits. These permits may be issued for the development of new fisheries, gear designed to harvest underutilized species and to persons who are interested in the development of experimental gear. The purpose of the permit system is to:

1. allow the department to closely supervise all fisheries not sanctioned by statutory law which may conflict with established fisheries or which may use gear prohibited by statutory law;

2. allow the permittee to develop experimental gear for fisheries development, while providing information of this activity to the department for scientific purposes.

NOTE: The following points delineate criteria used in the issuance of permits.

B. General Regulations

1. Permits will not be issued for species which are threatened or endangered. Permits will not be issued for fisheries, gear types or applications of otherwise legal gear which are specifically prohibited by law unless otherwise explicitly authorized by the secretary.

2. - 4. …

5. Information gained by the department through the issuance of a permit is not privileged and may be disseminated to the public.

6. - 15. …

16. The department reserves the right to observe the operations taking place under the permit at any time and permittee shall be required to provide food and lodging on the permitted vessel for an observer at the request of the department.

17. All permittees shall notify the department prior to leaving port to fish under permitted conditions and immediately upon returning from permitted trip. The department shall be notified by calling a designated phone number.

18. If any permittee does not report monthly as required, his permit shall be suspended. If no report is received by January 31, following suspension, the deposit is forfeited.

19. The permitted boat used in the program shall have a distinguishing sign so that it may be identified. The sign shall have the word "EXPERIMENTAL" printed on it in at least 6-inch high letters on a contrasting background so as to be visible from low flying aircraft or from any other vessel in the immediate vicinity.

C. Permit Application

1. All permits shall be valid for the calendar year in which they are issued and expire December 31 following the date of issuance. Any permits issued on or after November 15 of each year shall be valid for the remainder of the current calendar year as well as the following calendar year.

2. Each applicant for a permit under this program will be assessed an administrative fee of $50 prior to the issuance of the permit. Each applicant who is a resident of Louisiana will be required to post a performance fee deposit of $1,000 payable by cashier's check. All nonresidents shall post a performance fee deposit of $4,000 also payable by cashier's check. These deposits are required prior to the issuance of the permit and are valid until expiration of the permit.

3. Permit requests for experimental gear shall include complete descriptions of the gear and methods used, including drawings or pictures, and the specie(s) to be fished. All potential permittees shall send requests to the

Office of Fisheries permit manager. Proof of ownership or written permission from the owner of the proposed permitted vessel(s) shall be provided prior to the issuance of the permit. The person requesting a permit shall show proof that all applicable licenses have been acquired prior to the issuance of the permit. Proof of bona fide residency is also required prior to the issuance of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:571, R.S. 56:322.1, and R.S. 56:322.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 12:119 (February 1986), LR 12:847 (December 1986), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 15:1098 (December 1989), LR 28:1601 (July 2002), LR 29:49 (January 2003), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:947 (April 2005), LR 40:545 (March 2014), LR 43:1558 (August 2017).

Jack Montoucet
Secretary

1708#017

Notices of Intent

NOTICE OF INTENT

Department of Economic Development
Office of Entertainment Industry Development

Motion Picture Production Tax Credit Program
(LAC 61:I.1605 and 1607)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to amend the Rules for the Motion Picture Production Tax Credit Program (R.S. 47:6007 et seq.) to effect a reservation and allocation system under a new tax credit issuance cap provided by Act 309 of the 2017 Regular Session of the Louisiana Legislature.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter A. Motion Picture Production Tax Credit Program

§1605. Definitions

A. - B. …

* * *

Program Issuance Cap—for applications submitted on or after July 1, 2017, the office may issue no more than $150,000,000 in tax credits ("total cap") in any fiscal year, with $7,500,000 reserved for qualified entertainment companies ("QEC cap"), $7,500,000 reserved for Louisiana screenplay productions ("LA screenplay cap"), $15,000,000 reserved for independent film productions ("independent film cap"), with the remaining $120,000,000 available for general allocation to any state certified production ("general cap").

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 43:300 (February 2017), LR 43:

§1607. Certification Procedures

A. - A.1.c.v. …

2. All applicants shall participate in a career based learning and training program approved by the office. To meet this requirement, at the time of application, applicants may choose a method of participation from the list below:

a. provide a minimum of 3 paid internship positions provided to students enrolled in an accredited high school, community college, university or qualified community based program, for a minimum of 75 hours per student and a total of 225 hours; or

b. a minimum of 8 hours of classroom workshop provided to students enrolled in an accredited high school, community college, university or qualified community based program; or

c. a minimum of 8 hours of studio employment and professional skills tour provided to students enrolled in high school, community college, university or qualified community based program; or

d. a minimum of 8 hours of continuing education for educators or faculty to observe the set operations, post production and other specialized departments;

e. financial contribution or donation to a specific local educational agency or higher education institution specializing in arts, media and entertainment career oriented program. Financial contributions calculated at 0.25 percent of the estimated tax credit reservation; or

f. other method of participation approved by the office.

B. - B.3. ...

C. Initial Certification

1. Application Review Process, Provisional Allocation and Reservation of Tax Credits

a. Project-Based Production Tax Credit (for applications submitted prior to July 1, 2017)

i. After review and upon a determination of qualification, the office and the secretary shall issue an initial certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit (for applications submitted on or after July 1, 2017)

i. Beginning July 1, 2017 and thereafter, the office will accept and review applications on a monthly basis. All applications received by the fifteenth of the month will be treated as received on the last business day of the month ("monthly initial certification pool") and processed accordingly.

ii. After review and upon determination of qualification, the office and the secretary shall issue an initial certification letter, or a written denial. The initial certification letter will provisionally allocate tax credits based upon expected the cost report submission date and availability of tax credits in any given year.

iii. Tax credits provisionally allocated in the initial certification letter shall be reserved until 30 days following the identified start date of principal photography.

iv. The production company shall provide written evidence that principal photography has begun by the identified date by submitting documents such as call sheets, site visit reports from local film commission staff, or as otherwise approved by the office. Upon receipt, the office will issue an email confirmation, acknowledging the continued tax credit reservation and effectivity of the initial certification letter.

v. If the production company is unable to begin principal photography by the identified date, it shall provide written notice to the office and provide written reasons for

the delay and the anticipated new start date of principal photography. The office may, in its sole discretion, grant a one-time extension to such production company. Unless otherwise approved by the secretary for good cause shown, the extension shall not exceed 30 days.

vi. If the production company fails to provide appropriate written evidence that principal photography has begun by identified date or other approved date, the office will send production company a notice of disqualification and;

(a). the amount of credits reserved shall be added back into the available amount for that fiscal year, or rolled forward into the then current year, as applicable;

(b). the initial certification letter issued shall be deemed void, and the applicant shall be disqualified from earning any tax credits on the applicable state certified production;

(c). the applicant shall forfeit all application fees;

(d). any unused CPA advance deposit fees shall be refunded within 30 days;

vii. a production company so disqualified may re-submit a new application for the same project, which will be evaluated by the office as a new state certified production, with a new application date and subject to all applicable fee and filing requirements.

2. …

3. Cap Management—Phase 1—Initial Certification—Tentative Reservation

a. The reservation of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met:

i. QEC;

ii. LA screenplay;

iii. independent film;

iv. general; or

v. total cap.

b. Qualifying LA screenplay or independent film projects shall be allocated credits first from the available LA screenplay or independent film caps. On the day that the LA screenplay or independent film caps are met, credits shall be reserved from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of unreserved credits may be available for general allocation by the office, in addition to any residual general cap.

d. If the QEC cap is not met in any fiscal year, any residual unreserved credits shall carry forward for use by QEC's in subsequent years.

e. On the day that the total or general cap is reached, the credits remaining for allocation shall be reserved on a prorated basis amongst the monthly initial certification submission pool.

f. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

4. Duration of Effect (for applications submitted prior to July 1, 2017)

a. - b. …

5. Duration of Effect (for applications submitted on or after July 1, 2017)

a. Once an initial certification letter is issued, the applicant or official representative must countersign and return an original to the office, within 30 business days, acknowledging initial certification status and the reporting requirement for start date of principal photography.

b. The initial certification letter shall be effective for qualifying expenditures made within a period of 12 months prior to the date of application and 24 months after the date of initial certification letter, except that:

i. state certified productions for scripted episodic content ("SEC's"), with estimated expenditures of at least $10,000,000 in state expenditures per calendar year, shall be issued an initial certification letter effective for qualifying expenditures made until 60 months after the date of initial certification, under terms and conditions approved by the office and the secretary, as set forth in the initial certification letter.

ii. when determining the amount and appropriate allocation and reservation of credits for SEC's, the office shall review all pertinent information, including but not limited to; whether the project is a pilot, TV series from a pilot formerly shot in Louisiana, a recurring TV series or a relocating TV series.

iii. unless otherwise approved by the office and the secretary, SEC tax credits will be allocated from the general cap, and initially reserved for two seasons. SEC applicants shall periodically provide updates to the office, and the initial certification letter may be subsequently revised to allow for additional allocations and reservations of credits for seasons three through five, if applicable.

D. Final Certification; Audit Requirements

1. - 2.b. …

3. Final Allocation and Issuance of Tax Credits

a. Project-Based Production Credit (for Applications Submitted prior to July 1, 2017)

i. After review and upon a determination of qualification, the office and the secretary shall issue a final certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit (for applications submitted on or after July 1, 2017)

i. Beginning July 1, 2017 and thereafter, the office will accept and review requests for final certification on a monthly basis. Applicants shall have completed all required steps for certification of credits, and requests shall be evidenced by submission of a signed attestation form to the office. All requests received by the fifteenth of the month will be treated as received on the last business day of the month, ("monthly final certification submission pool") and processed accordingly.

ii. After review and determination of qualification, the office and the secretary shall issue a final certification letter, in accordance with the provisional allocations and amounts set forth in the initial certification letter, or a written denial.

iii. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and may be available for issuance by the office.

iv. In the event that more than the reserved amount of tax credits has been verified, the office shall

preliminarily issue tax credits in an amount not to exceed the total indicated in the initial certification letter, but may at its discretion, subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

4. Cap Management—Phase 2- Final Certification—Tax Credit Issuance

a. The issuance of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met; QEC, LA screenplay, independent film, general or total cap.

b. Qualifying LA screenplay or independent film projects shall be issued credits first from the available LA screenplay or independent film caps. On the day that the LA screenplay or independent film caps are met, credits shall be issued from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of credits may be available for issuance by the office, in addition to any residual general cap.

d. If the total cap has not been met by May 30 of any year, the office shall review any projects with excess expenditures for which credits have neither been certified nor denied, and may issue supplemental tax credits from any remaining general cap. Such projects shall all be treated as received on June 15th and processed accordingly.

e. If the QEC cap is not met in any fiscal year, any residual credits shall carry forward for use by QEC's in subsequent years.

f. On the day that the total or general cap is reached, the credits remaining for allocation shall be issued on a prorate basis amongst the monthly final certification submission pool.

g. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

E. Appeal Process. In the event that an application for initial or final certification is denied:

1. - 2. …

3. Initial certification letters that were issued to an applicant, but subsequently deemed void by the office, following a notice of disqualification for failure to begin principal photography by an agreed upon identified date or other approved date, shall not be subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 42:39 (January 2016), LR 43:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephen Hamner through the close of business on Tuesday, September 26, 2017 at 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to stephen.hamner@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Wednesday, September, 27, 2017 at the Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Motion Picture Production Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any additional savings or expenditures for state governmental units, as it sets forth guidelines for reserving and allocating tax credits required by portions of Act 309 of the 2017 Legislative Session (See Part II) and better aligns the rules with statutory provisions and administrative practices. Although there were substantial program changes, any administrative duties brought about by the proposed rule will be carried out by existing departmental staff funded by the existing LED budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes place front-end and back-end caps on film tax credit issuances and claims currently in statute into the LA Administrative Code. Act 309 of the 2017 Regular Session established the maximum amount of tax credit issuance by LED at $150 M per fiscal year for productions applying on or after July 1, 2017. In addition, the maximum amount of credits that may be claimed in a fiscal year remains at $180 M. as is presently outlined in statute. However, if credit claims are less than $180 M in a given year, the deficiency amount is added to the following year claim cap, allowing claims in excess of $180 M. While the front-end cap of $150 M will potentially keep the cost of the program below $180 M

annually, roughly $280 M in legacy credits in the pipeline prior to Act 309's effective date and rates at which new credit issuances are claimed will create some variation in the amount of SGF revenues lost to the program each year.

There is no impact to local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Firms who are eligible for film tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit. However, reductions in tax liabilities will be offset by certification requirements that compel applicants to provide one of a number of services, including paid internships; classroom workshops to students of secondary and postsecondary institutions, as well community-based learning programs; studio employment and professional skills tours to students of secondary and postsecondary institutions, as well community-based learning programs; continuing education for educators or faculty to observe set operations, post-production, or other specialized departments; or a financial contribution to a specific local educational agency or a postsecondary institution specializing in arts, media, or entertainment career-oriented programs that is equal to 0.25% of the estimated tax credit reservation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits. Furthermore, allocations within the $150 M cap for qualified entertainment companies ($7.5 M), Louisiana screenplay productions ($7.5 M), and independent film productions ($15 M) block off portions of available credits for certain types of firms. As a result, firms not qualifying for credits under the aforementioned allocations will only be able to receive credits under the "general cap," potentially limiting the amount of credits they may receive. However, in the event one or more of the allocation caps within the $150 M is not met by April 30 of a given year, the remaining portion will revert to the "general cap."

Anne G. Villa	Gregory V. Albrecht
Undersecretary	Chief Economist
1708#040	Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of the Secretary

Direct Bonding Assistance
(LAC 19:II.903)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to amend the Rules for the Small Business Bonding Program to allow certain applicants up to an additional three years of access to the program.

Title 19
CORPORATIONS AND BUSINESS
Part II. Small and Emerging Business Development Program
Chapter 19. Small Business Bonding Program
§903. Direct Bonding Assistance

A. Direct Bonding Assistance—Eligibility

1. All certified active small and emerging construction businesses, and all other certified SEBs (non-construction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or $200,000 on any single project.

2. Beginning July 1, 2017, firms with previously approved SEBD certification status expiring after July 1, 2017 but prior to July 1, 2020, may be granted continued eligibility for the Direct Bonding Assistance Program for a period of up to three years, but no later than July 1, 2020.

3. All obligations, whether contractual or financial, will require the approval of the undersecretary.

B. - C.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:942.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998), amended by the Department of Economic Development, Office of Business Development, LR 29:547 (April 2003), LR 30:758 (April 2004), LR 36:52 (January 2010), LR 43:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is anticipated to have a positive impact on small businesses as defined in the Regulatory Flexibility Act, by granting previously approved SEBD's continued eligibility for the Direct Bonding Assistance Program, for a period of up to three years.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons should submit written comments on the proposed Rules to John Mathews through the close of business on Tuesday, September 26, 2017 at 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to john.mathews@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 11 a.m. on Wednesday, September, 27, 2017 at the Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802.

Mandi D. Mitchell
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Direct Bonding Assistance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in SGR expenditure increases as a result of restarting a program that has been dormant since the end of FY 12. The proposed rule change amends rules associated with allowing non-construction firms certified as "small and emerging" to obtain bond guaranty assistance not to exceed 25% of a contract's value or $200,000,

whichever is lesser. The LA Public Facilities Authority (LPFA) issued the LA Dept. of Economic Development (LED) a low-interest loan of $2 M to restart the previously-dormant Direct Bonding Assistance Program for non-construction small and emerging businesses (SEBDs). The program allows LED to provide letters of credit or other forms of guarantee in order to defray a surety company's risk in providing bonds to the aforementioned types of firms. Under the auspices of the program, LED may back bid bonds, performance bonds, and payment bonds with the loan from the LPFA.

Expenditures associated with the proposed rule change are primarily due to payment of annual fees for the loan totaling 2% of the loan value, in addition to repayment of the principle. The fee schedule outlined in the cooperative endeavor agreement totals $37,863 in FY 18 and $40,000 in FYs 19 – 20, with repayment of the principle occurring in FY 20. LED will only be liable for repayment of the loan principle in the event an SEBD fails to perform under the terms of a bond issued with the department's assistance and surety companies collect on a letter of credit or other form of guarantee. In the event firms perform under the terms of an issued bond, the guarantee paid by the loan is released and goes back into the fund. While LED has a potential exposure equal to the loan value of $2 M plus annual fees, the rate of firms failing has been low, with approximately 2% of firms failing to perform under the terms of bonds issued with LED's backing. LED anticipates a low failure rate when restarting the program, and will utilize existing personnel and budget authority to perform duties and fund expenditures associated with the proposed rule change. In the event a firm fails to perform under the terms of a bond agreement, LED anticipates repaying the portion of the debt principle collected by the surety company using its existing SGR appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Firms qualifying for guarantee assistance under the Direct Bonding Assistance Program may have easier access to bonds necessary for contracts that they may not have otherwise been able to obtain without assistance. In the short and medium term, the program may allow participating firms to grow and add to their portfolios, which may lead to firms obtaining larger projects in the long term. However, any firm growth in the long term is speculative and cannot be predicted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
1708#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 102—Louisiana Physical Education Content Standards (LAC 28:LIII.Chapters 1-15)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement revisions to *Bulletin 102—Louisiana Physical Education Content Standards*: §101. Introduction; §103. Louisiana Physical Education Standards to Promote Physical Literacy; §105. Definitions/Descriptions; §107. Louisiana Physical Education Standards; §301. Introduction; §303.Standard One; §305. Standard Two; §307. Standard Three; §309. Standard Four; §311. Standard Five; §501. Introduction; §503. Standard One; §505. Standard Two; §507. Standard Three; §509. Standard Four; §511. Standard Five; §513. Standard 7; §701. Introduction; §703. Standard One; §705. Standard Two; §707. Standard Three; §709. Standard Four; §711. Standard Five; §713. Standard 7; §901. Introduction; §903. Standard One; §905. Standard Two; §907. Standard Three; §909. Standard Four; §911. Standard Five; §913. Standard 7; §1101. Definitions; §1103. Standard 2; §1105. Standard 3; §1107. Standard 4; §1109. Standard 5; §1111. Standard 6; § 1113. Standard 7; §1501. Kindergarten Grade-Level Expectations; §1503. Grade 1 Grade-Level Expectations; §1505. Grade 2 Grade-Level Expectations; §1507. Grade 3 Grade-Level Expectations; §1509. Grade 4 Grade-Level Expectations; §1511. Grade 5 Grade-Level Expectations; § 1513. Grade 6 Grade-Level Expectations; §1515. Grade 7 Grade-Level Expectations; §1517. Grade 8 Grade-Level Expectations; and §1519. High School Grade-Level Expectations.

Louisiana state law RS 17:24.4 requires BESE to adopt academic content standards, which are defined in the law as statements that define what a student should know or be able to accomplish at the end of a specific time period, grade level or at the completion of a course. BESE Bulletin 741, §2301 states, "The Louisiana content standards shall be subject to review and revision to maintain rigor and high expectations for teaching and learning." Bulletin 102 contains the Louisiana Physical Education standards and was last revised in December 2009. In response to requests from physical education educators and stakeholders, the LDE assembled a work group to review and make recommendations for updating the current Louisiana Physical Education standards. The work group was comprised of practitioners and stakeholders with expertise in physical education including elementary, middle and high school physical education teachers, higher education physical education professionals, and representatives from the Louisiana Association of Health Physical Education, Recreation and Dance (LAHPERD) the Louisiana Department of Health, Alliance for a Healthier Generation, and Governor's Council on Physical Fitness. The proposed standards maintain current focus on motor skills, movement patterns, application of movement concepts, health-enhancing physical activity, responsible behavior and enjoyment of physical activity for health.

Title 28
EDUCATION
Part LIII. Bulletin 102—Louisiana Physical Education Content Standards
Chapter 1. General Provisions
§101. Introduction

A. The Louisiana K-12 physical education content standards were developed to provide physical education teachers, administrators and parents a guide to understanding and interpreting physical education for the future.

B. The goal of physical education is to develop physically literate individuals who have the knowledge, skills, and confidence to enjoy a lifetime of healthful physical activity.

C. To pursue a lifetime of healthful physical activity, a physically literate individual:

1. has learned the skills necessary to participate in a variety of physical activities;

2. knows the implications and the benefits of involvement in various types of physical activities;

3. participates regularly in physical activity;

4. is physically fit; and

5. values physical activity and its contributions to a healthful lifestyle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§103. Louisiana Physical Education Standards to Promote Physical Literacy

A. Standard 1. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is to provide students with a broad base of skills and movement patterns that will enhance the ability to be physically active in a variety of ways and continue a lifelong pattern of physical activity. Competency means that the students possess the ability and knowledge at an emerging or higher level. The variety of skill comes from three basic categories of movement skills, i.e. locomotor (moving the body from one location to another), manipulative (using a variety of objects in conjunction with the hands, feet, and other body parts), and non-locomotor/stability (movements of the body and its parts in a relatively stable position).

B. Standard 2. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. This standard addresses the need for students to understand related cognitive information pertinent to movement skills in physical education. The teaching of the information should be appropriate to the grade level being taught and is derived from the movement sciences (motor learning and development, sport psychology and sociology, biomechanics and exercise physiology). A movement vocabulary should be developed for each movement area taught. In addition, basic concepts about absorbing and exerting force, balance, managing stress related to changes in the body as one grows, stress related to expectation of others and self. Strategies for success should progress from simple to complex and be developmentally appropriate. Application of information should be related to real world skills and games that students are taught.

C. Standard 3. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent. The intent of this standard is to provide the knowledge and methods for achieving and maintaining a health enhancing level of physical fitness. Students should be taught about fitness and its importance throughout the lifespan. Fitness can be derived from participating in a variety of activities and is important to success in activities as well as individual wellness. Concepts, principles, and strategies should also be incorporated as part of health-related fitness [e.g. frequency of activity, intensity of activity, time spent in activity, and type of activity (FITT)]. Each student will have different interests and abilities that dictate the need for teachers to individualize activities, i.e. various levels of intensity and ways to enhance fitness.

D. Standard 4. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. Responsible behavior addresses the need for both self-motivated behavior as well as adherence to social expectations in movement settings. Students should understand that safe participation and respect for others is an important aspect of this standard. Other components of standard 4 are appreciation for individual and cultural diversity, etiquette, being proactive rather than reactive, adhering to rules, and giving one's best effort.

E. Standard 5. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent. The intent of this standard is to help students learn more about personal values and the importance of daily physical activity. Students who do not recognize the value of being physically active are less likely to pursue physical activity opportunities. The activities taught in physical education classes can facilitate student enjoyment of being physically active, openness to new activity options that are challenging, learning of positive social skills, and recognition of physical activity as an opportunity for self-expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§105. Definitions/Descriptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§107. Louisiana Physical Education Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

Chapter 3. Grades K-2 Cluster Level

§301. Introduction

A. The Louisiana K-2 physical education standards were developed to provide physical education teachers, administrators and parents a guide to understanding and interpreting physical education for the future. The primary focus for this age group is the learning and acquisition of locomotor, non-locomotor, and manipulative skills. These are the foundational skills for all movement patterns that gradually become more complex as movement becomes more specific. This grade cluster is also charged with introducing health enhancing concepts (eating well, water

consumption, sleep, and physical activity) and the accompanying conceptual movement vocabulary (personal space/general space, forward/backward, twist/turn, hard/soft). These tasks can be accomplished by using a variety of balls (yarn, beach, playground, nerf) and other age appropriate manipulative equipment. Students should be encouraged to accept responsibility for personal level of fitness by introductory goal setting, identifying physical activity opportunities at home or in their neighborhood and be open to trying new activities and challenges.

B. Standards provide criteria for all students, and other stakeholders that represent what students should know and be able to do.

C. Physical education classes support students in developing the necessary skills to achieve each standard and outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

D. Reading the Standards. In the standards below, the first number listed is the number of the corresponding standard. The second letter or number identifies the grade level to which the statement pertains. Directly following the hyphen, the number listed states to which component within that standard the statement refers. Lastly, the final number recognizes the grade level expectation (GLE). The following is a guide to interpret each coded outcome:

1. example. [1.K-2.4] Kick a stationary ball:

a. 1 = the first number listed provides what standard is being identified; in this case, standard one. (This could be 1-5, depending on the standard.);

b. K= the number or letter listed provides the level targeted; in this case, kindergarten;

c. 2= the number or letter listed provides the component being targeted within the standard; in this case, the second component related to the standard;

d. 4 = this number listed provides the expectation within that component; in this case, the fourth expectation a student should be able to complete;

2. the following terms are used through the standards as performance indicators:

a. E = emerging—students participate in deliberate practice tasks that will lead to skill and knowledge acquisition;

b. M = maturing—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations, which will continue to be refined with practice;

c. A = applying—students can demonstrate the critical elements of the motor skills and knowledge components of the grade level expectations in a variety of physical activity environments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§303. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is to provide students with a broad base of skills and movement patterns that will enhance the ability to be physically active in a variety of ways and enable a student to continue a lifelong pattern of physical activity. The focus is on the locomotor, non-locomotor and manipulative skills. By the end of the second grade, students should exhibit mature patterns in locomotor skills, demonstrate the knowledge of different non-locomotor skills, and throw underhand and overhand using a mature pattern.

B. Grade Level Expectations for Grades K-2

1. Locomotor and Non-Locomotor

a. Kindergarten

i. [1.K-1.1] Demonstrate walk, run, and slide locomotor skills.

ii. [1.K-1.2] Explore locomotor skills of jump, gallop, skip, hop, and leap in a closed environment.

iii. [1.K-1.3] Use non-locomotor skills in closed and open environment.

iv. [1.K-1.4] Balance using a variety of body parts and body shapes.

v. [1.K-1.5] Transfer weight by rocking and rolling.

vi. [1.K-1.6] Move in time with a changing beat.

b. First Grade

i. [1.1-1.1] Demonstrate gallop and hop locomotor skills.

ii. [1.1-1.2] Perform locomotor skills while changing pathway, direction, and/or speed.

iii. [1.1-1.3] Use non-locomotor skills in closed and open environments and in response to verbal and nonverbal stimuli.

iv. [1.1-1.4] Balance in a variety of ways using equipment and/or apparatus.

v. [1.1-1.5] Perform a variety of different rocking and rolling skills.

vi. [1.1-1.6] Move to a rhythmic beat or pattern.

c. Second Grade

i. [1.2-1.1] Demonstrate all fundamental locomotor skills.

ii. [1.2-1.2] Perform combinations of locomotor, non-locomotor, weight transfer, and static and dynamic balance skills.

iii. [1.2-1.3] Perform combinations of non-locomotor and locomotor skills in a movement pattern.

iv. [1.2-1.4] Demonstrate static and balance skills as part of a movement pattern.

v. [1.2-1.5] Perform combinations of rolling and balance skills.

vi. [1.2-1.6] Perform rhythmic dance steps and sequences.

2. Manipulative

a. Kindergarten

i. [1.K-2.1] Throw objects in a variety of ways to oneself.

ii. [1.K-2.2] Catch a bounced ball.

iii. [1.K-2.3] Use different body parts to strike a lightweight object and keep it in the air.

iv. [1.K-2.4] Kick a stationary ball.

v. [1.K-2.5] Dribble objects with the hand in a closed or open environment.

vi. [1.K-2.6] Roll a ball underhand.

b. First Grade

i. [1.1-2.1 Throw using variations in time/force.

ii. [1.1-2.2] Catch a self-tossed object with hands or an implement.

iii. [1.1-2.3] Strike an object using different body parts.

iv. [1.1-2.4] Kick a ball for force using a backswing with the kicking leg and non-kicking leg stepping next to the ball with force.

v. [1.1-2.5] Dribble an object with hands and feet in a closed environment through personal and general space.

vi. [1.1-2.6] Roll a ball to a specified target.

c. Second Grade

i. [1.2-2.1] Throw overhand a variety of objects. Demonstrate a side orientation with critical elements.

ii. [1.2-2.2] Catch objects coming from different directions and heights.

iii. [1.2-2.3] Strike a variety of objects with the hand or an implement with purpose to control force/direction.

iv. [1.2-2.4] Kick a rolled or moving ball with the top of shoes.

v. [1.2-2.5] Dribble a ball with hands and feet using variations of controlled speed, direction, and pathway, and in relationship to objects.

vi. 1.2-2.6 Roll a ball or object to a moving target or partner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§305. Standard 2

A. Standard 2. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. The intent of this standard is to ensure that the student is able to apply the knowledge of concepts, principles, strategies, and tactics related to movement and performance. Students should be able to analyze movement situations and apply movement concepts (speed, direction, force, extensions) in small sided practice tasks and game environments, dance, and gymnastics. Students should also demonstrate competency and understanding of basic offensive and defensive strategies for small-sided and net/wall games.

B. Grade Level Expectations K-2

1. Movement Concepts

a. Kindergarten

i. [2.K-1.1] Establish a movement vocabulary through exploration of body, space, effort, flow, and relationships.

ii. [2.K-1.2] Recall pathways, direction, levels, and relationships.

iii. [2.K-1.3] Distinguish between different degrees of effort.

iv. [2.K-1.4] Identify boundaries for personal and general space.

b. First Grade

i. [2.1-1.1] Describe movement vocabulary terms in body, space, effort, flow, and relationships.

ii. [2.1-1.2] Demonstrate an understanding of relationships in a variety of physical activities.

iii. [2.1-1.3] Apply different degrees of force, speed, and direction when directed by the teacher.

iv. [2.1-1.4] Apply concepts of personal and general space to accomplish movement tasks.

c. Second Grade

i. [2.2-1.1] Apply movement vocabulary of body, space, effort, flow, and relationships to complete movement tasks.

ii. [2.2-1.2] Apply movement concepts to modify performance.

iii. [2.2-1.3] Apply different degrees of effort, force, speed, and direction to accomplish a task.

iv. [2.2-1.4] Apply concepts of general and personal space to accomplish movement tasks in movement patterns, games, and tasks.

2. Knowledge and Skill Cues

a. Kindergarten

i. [2.K-2.1] Differentiate among locomotor skills.

ii. [2.K-2.2] Repeat cue words for fundamental motor skills.

b. First Grade

i. [2.1-2.1] Differentiate among non-locomotor and manipulative skills.

ii. [2.1-2.2] Repeat cue words for fundamental motor skills and apply them to improve performance.

c. Second Grade

i. [2.2-2.1] Differentiate between locomotor, non-locomotor, and manipulative skills.

ii. [2.2-2.2] Identify and perform locomotor, non-locomotor, and manipulative skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§307. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent: The intent of this standard is that students will be able to analyze physical activity outside of physical education class for fitness benefits and differentiate between skill and health related fitness. Students should design a fitness plan to maintain and enhance fitness level and analyze the impact of food choices relative to personal health and fitness.

B. Grade Level Expectations K-2

1. Physical Activity Knowledge

a. Kindergarten

i. [3.K-1.1] Recognize and differentiate between physical activity and inactivity.

ii. [3.K-1.2] Recognize the amount of physical activity within physical education.

iii. [3.K-1.2] Recognize that food provides energy for physical activity.

b. First Grade

i. [3.1-1.1] Identify opportunities for physical activity during the school day.

ii. [3.1-1.2 Track the amount of physical activity within the school day.

iii. [3.1-1.3] Differentiate between healthy and unhealthy food and beverage choices for physical activity.

c. Second Grade

i. [3.2-1.1] Identify opportunities for physical activity at school, home, and in the community.

ii. [3.2-1.2] Track the amount of physical activity within the school day.

iii. [3.2-1.3] Suggest alternatives to unhealthy food and beverage choices related to physical activity.

2. Cardio, Flexibility, Muscular Strength, and Endurance

a. Kindergarten

i. [3.K-2.1] Recognize activities that could be used to improve each component of health-related fitness.

ii. [3.K-2.2 Recognize that when one moves fast, the heart beats faster and breathing becomes faster.

iii. [3.K-2.3] Recognize the importance of muscular strength to support body weight.

iv. [3.K-2.4] Identify ways to stretch muscles in the body.

b. First Grade

i. [3.1-2.]1 Identify activities that align with each component of health-related fitness.

ii. [3.1-2.2] Identify the heart as a muscle that grows stronger with exercise and physical activity.

iii. [3.1-2.3] Identify ways to strengthen muscles.

iv. [3.1-2.4] Identify ways to stretch muscles in the upper and lower body.

c. Second Grade

i. [3.2-2.1] Demonstrate activities that align with each component of health-related fitness.

ii. [3.2-2.2] Identify activities that increase heart rate.

iii. [3.2-2.3] Identify activities to improve muscular strength.

iv. [3.2-2.4] Identify ways to stretch muscles in various parts of the body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§309. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is that students will demonstrate responsible interpersonal behavior (peer to peer, student to teacher, student to referee) in a variety of physical activity contexts, environments, and facilities. The student will be able to give correct feedback respectfully to peers and willing involve students with higher or lower skill ability into group projects/activities. The students will demonstrate appropriate etiquette and safety principles in a variety of physical activity settings.

B. Grade Level Expectations K-2

1. Self-Direction and Safety

a. Kindergarten

i. [4.K-1.1] Respond positively to reminders of appropriate safety procedures.

ii. [4.K-1.2] Follow directions and handle equipment safely.

iii. [4.K-1.3] Work independently and safely in personal and shared space.

iv. [4.K-1.4] Explain rules related to safety and activity-specific procedures.

b. First Grade

i. [4.1-1.1] Respond positively to reminders of appropriate safety procedures.

ii. [4.1-1.2] Follow directions and handle equipment safely.

iii. [4.1-1.3] Demonstrate individual work safety around others and in a shared space.

iv. [4.1-1.4] Explain rules related to safety and activity-specific procedures.

c. Second Grade

i. [4.2-1.1] Respond positively to reminders of appropriate safety procedures.

ii. [4.2-1.2] Follow directions and handle equipment safely.

iii. [4.2-1.3] Participate and assess one's behavior in physical activities.

iv. [4.2-1.4] Explain rules related to safety and activity-specific procedures.

2. Cooperation and Respect

a. Kindergarten

i. [4.K-2.1] Follow instructions while participating in physical education activities.

ii. [4.K-2.2] Demonstrate cooperation and consideration of others in partner and group physical activities.

iii. [4.K-2.3] Demonstrate willingness to work with a variety of partners in physical education activities.

b. First Grade

i. [4.1-2.1] Follow instructions and class procedures while participating in physical education activities.

ii. [4.1-2.2] Describe examples of cooperation and sharing in a variety of physical activities.

iii. [4.1-2.3] Demonstrate consideration of others with varying skill or fitness levels while participating in physical education activities.

c. Second Grade

i. [4.2-2.1] Apply proper class procedures while participating in physical education activities.

ii. [4.2-2.2] Demonstrate cooperation with others when resolving conflicts in physical education activities.

iii. [4.2-2.3] Interact positively with others in partner and small group activities respecting individual differences.

iv. [4.2-2.4] Take turns using equipment or performing a task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§311. Standard 5

A. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent. The intent of this standard is to develop a student who is able to compare the health benefits of a variety of physical activities. Students are able to express enjoyment and/or the willingness to participate in physical activities that are new and different. Students will view physical activity as an opportunity for social interaction across the lifespan.

B. Grade Level Expectations K-2

1. Health Reasons to be Physically Active

a. Kindergarten

i. [5.K-1.1] Recognize physical activity has positive health benefits.

b. First Grade

i. [5.1-1.1] Recognize more physical activity leads to additional health benefits.

c. Second Grade

i. [5.2-1.1] Identify specific health benefits from participation in daily physical activity.

2. Enjoyment

a. Kindergarten

i. [5.K-2.1] Participate in physical activity outside of class time or during their leisure time.

b. First Grade

i. [5.1-2.1] Attempt new activities presented in class.

c. Second Grade

i. [5.2-2.1] Discuss personal choices for enjoying various types of physical activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

Chapter 5. Grades 3—5 Cluster Level

§501. Introduction

A. The focus of the 3-5 cluster is an increase in the difficulty of movement challenges presented to students in the form of combining movement patterns (fielding a ground ball, dribbling while running) that are authentic to game situations. Skill practice becomes more specific as the complexity of small sided games increases. Emphasis shifts to students being able to give appropriate feedback, applying movement concepts and working with partners or in groups with peers of higher or lower skill abilities. An emphasis on etiquette and safety of physical activity is included in all lessons. Health-enhancing concepts continue to focus on the health-related components of physical fitness and the benefits to overall physical health.

B. The following standards were developed and reshaped in order to meet the most up-to-date goals and outcomes established in elementary physical education. Teachers are expected to review the standards and outcomes related to achieving the standards when planning school curriculum. Activities for class are chosen based on student ability to meet the standards, not the other way around which has traditionally dominated physical education. Below are suggestions of standards-based curriculum models that were designed to help teachers achieve the standards through evidence-based practice:

1. teaching games for understanding;
2. skills-theme approach;
3. social and personal responsibility model.

C. Through the use of appropriate practices and evidence-based curriculum models, teachers can develop a comprehensive physical education program that promotes enjoyment, confidence, and competence in a variety of fundamental movement concept. Standards provide criteria for all students, and other stakeholders that represent what students should know and be able to do. Therefore, with careful planning and proper assessment the following standards will show what students have achieved by graduation from high school.

D. Physical education classes support students by developing the necessary skills to achieve each standard and outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

E. Reading the Standards. There are five standards listed for elementary physical education (K-5). Elementary requirements for Louisiana students include daily physical education for students. In the standards below, the first number listed is the number of the corresponding standard. The second letter or number identifies to which grade level the statement pertains. Directly following the hyphen, the number listed states which component within that standard the statement refers. Lastly, the final number recognizes the grade level expectation (GLE). Here is how to interpret each coded outcome:

1. example. [1.K-2.4] Kick a stationary ball:

a. 1 = the first number listed provides what standard is being identified, in this case standard one. (This could be 1-5, depending on the standard).

b. K = the number or letter listed provides the level targeted, in this case kindergarten.

c. 2 = the number or letter listed provides the component being targeted within the standard, in this case the second component related to the standard.

d. 4 = the number listed provides the expectation within that component, in this case the fourth expectation a student should be able to complete.

2. Note. Lesson plans, unit plans, and assessments that identify the standard being addressed will often cover and/or include more than one component outcome, and possibly more than one standard.

3. The following terms are used throughout the standards as performance indicators:

a. E = emerging—students participate in deliberate practice tasks that will lead to skill and knowledge acquisition;

b. M = maturing—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations, which will continue to be refined with practice;

c. A = applying—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations in a variety of physical activity environments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§503. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is to ensure that upon exiting the fifth grade, students will demonstrate mature patterns in fundamental motor skills and selected combinations of those skills. Students will be able to use movement concepts in small-sided practice tasks, dance, gymnastics, and lead up games that utilize a variety of equipment.

B. Grade Level Expectations Grades 3-5

1. Combine Skills

a. Third Grade

i. [1.3-1.1] Perform a sequence of movements with a beginning, middle and end.

ii. [1.3-1.2] Jump rope demonstrating a variety of footwork skills.

iii. [1.3-1.3] Balance on different bases of support and on apparatus demonstrating different levels, shapes, and patterns.

iv. [1.3-1.4] Perform teacher-selected and developmentally appropriate dance steps and movement patterns.

b. Fourth Grade

i. [1.4-1.1] Perform a movement sequence comprised of both basic and intermediate skills.

ii. [1.4-1.2] Jump rope demonstrating a variety of footwork and arm action skills.

iii. [1.4-1.3] Combine balance and weight transfer skills in a movement sequence.

iv. [1.4-1.4] Combine locomotor movement patterns and dance steps to create and perform a dance.

c. Fifth Grade

i. [1.5-1.1] Perform a movement sequence comprised of both basic and intermediate skills with smooth transitions between those movements.

ii. [1.5-1.2] Jump rope demonstrating a variety of footwork, arm action skills, and/or tricks of choice.

iii. [1.5-1.3] Combine balance and transferring weight with movement skills in a gymnastics or dance sequence.

iv. [1.5-1.4] Combine skills in dances with correct rhythm and pattern.

2. Application of Skills

a. Third Grade

i. [1.3-2.1] Throw overhand with force using appropriate critical elements.

ii. [1.3-2.2] Catch a variety of objects in dynamic conditions using the critical elements.

iii. [1.3-2.3] Strike an object with an implement using the critical elements.

iv. [1.3-2.4] Kick a ball with the inside of the foot to a target using the critical elements.

v. [1.3-2.5] Dribble and maintain control while moving through space using the critical elements.

vi. [1.3-2.6] Send an object to a target using critical elements in a stable environment.

b. Fourth Grade

i. [1.4-2.1] Throw overhand with varying degrees of force using appropriate critical elements to reach different distances.

ii. [1.4-2.2] Catch two-handed during a game or game-like situation using the critical elements.

iii. [1.4-2.3] Strike an object with an implement using the critical elements.

iv. [1.4-2.4] Kick a ball to targets with the inside of the foot using the critical elements.

v. [1.4-2.5] Dribble with control while moving through space to avoid stationary objects using the critical elements.

vi. [1.4-2.6] Send an object to a target using critical elements while varying space, distance, location, and relationship to objects.

c. Fifth Grade

i. [1.5-2.1] Throw overhand to reach a medium-sized target with sufficient force using appropriate critical elements.

ii. [1.5-2.2] Catch with an implement (e.g., glove, scoop) using the critical elements.

iii. [1.5-2.3] Strike an object with an implement using critical elements in relation to distance, space, and direction demands.

iv. [1.5-2.4] Receive a kick, dribble and then kick a ball to a target using the critical elements.

v. [1.5-2.5] Dribble under control during a game or game-like situation using the critical elements.

vi. [1.5-2.6] Send an object using critical elements while varying body, space, effort, and relationship to defenders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§505. Standard 2

A. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. The intent of this standard is to ensure the student is able to apply the knowledge of concepts, principles, strategies, and tactics related to movement and performance. Students should be able to analyze movement situations and apply movement concepts (speed, direction, force, extensions) in small-sided practice tasks and game environments, dance, and gymnastics. Students should also demonstrate competency and understanding of basic offensive and defensive strategies for small-sided and net/wall games.

B. Grade Level Expectations Grades 3-5

1. Strategies and Tactics

a. Third Grade

i. [2.3-1.1] Modify movement to meet the demands of a task.

ii. [2.3-1.2] Explain how the characteristics of an object affect performance of manipulative skills.

iii. [2.3-1.3] Recognize offensive and defensive situations.

iv. [2.3-1.4] Identify the choices necessary to score a goal or point.

b. Fourth Grade

i. [2.4-1.1 Explain the importance of weight transfer in object propulsion skills.

ii. [2.4-1.2] Describe and demonstrate the correct movement or movement qualities based on the characteristics of the task and/or environment.

iii. [2.4-1.3] Identify open space and areas of space to defend in a dynamic environment.

iv. [2.4-1.4] Select correct decision when presented with a tactical problem to score.

c. Fifth Grade

i. [2.5-1.1] Identify similar patterns/concepts across related activities.

ii. [2.5-1.2] Analyze and modify a movement based on the characteristics of the task and/or environment in a dynamic or changing environment.

iii. [2.5-1.3] Demonstrate offensive and defensive positioning in simple game settings.

iv. [2.5-1.4] Demonstrate basic decision-making capabilities in simple performance settings.

2. Principles and Critical Elements

a. Third Grade

i. [2.3-2.1] Describe the critical elements of the manipulative skills and activity-specific skills.

ii. [2.3-2.2] Explain how appropriate practice improves performance.

b. Fourth Grade

i. [2.4-2.1] Identify correct and incorrect aspects of skill performance using critical elements.

ii. [2.4-2.2 Explain how to improve performance of a movement or skill.

c. Fifth Grade

i. [2.5-2.1] Apply critical elements to analyze and provide feedback on motor-skill performance of others.

ii. [2.5-2.2] Suggest ways to improve skill performance using the principles of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§507. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent: The intent of this standard is that students will be able to analyze physical activity outside of physical education class for fitness benefits and differentiate between skill and health-related fitness.

B. Grade Level Expectations Grades 3-5

1. Physical Activity Knowledge

a. Third Grade

i. [3.3-1.1] Identify school, home, and community physical activity opportunities to meet physical activity guidelines.

ii. [3.3-1.2] Track physical activity minutes inside and outside of school to determine progress toward daily recommendation.

iii. [3.3-1.3] Identifies foods that are beneficial for before and after physical activity.

b. Fourth Grade

i. [3.4-1.1] Analyze opportunities for participating in physical activity outside of physical education class.

ii. [3.4-1.2] Track and chart physical activity minutes or steps to determine progress toward daily recommendation.

iii. [3.4-1.3] Discuss the importance of hydration and dehydration choices relative to physical activities.

c. Fifth Grade

i. [3.5-1.1] Identify school, home, and community physical activity opportunities to meet physical activity guidelines.

ii. [3.5-1.2] Track and chart physical activity minutes to determine progress toward daily recommendation.

iii. [3.5-1.3] Analyze the impact of food choices relative to physical activity, youth sports, and personal health.

2. Health Related Fitness Knowledge

a. Third Grade

i. [3.3-2.1] Describe the concept of fitness and provide examples of heart rate evaluation methods.

ii. [3.3-2.2] Assess heart rate during physical activity and exercise.

iii. [3.3-2.3] Identify activities to improve muscular strength and endurance in the core area.

iv. [3.3-2.4] Recognize the importance of warm-up and cool-down activities.

v. [3.3-2.5] Analyze the results of a fitness assessment to determine areas in a healthy fitness zone (HFZ).

vi. [3.3-2.6] Identify the frequency and type of exercise in relationship to the FITT principle.

b. Fourth Grade

i. [3.4-2.1] Completes fitness assessments (pre and post).

ii. [3.4-2.2] Link specific activities to the appropriate health-related fitness component.

iii. [3.4-2.3] Evaluate heart rate during physical activity and exercise to sustain a moderate to vigorous activity for longer periods of time.

iv. [3.4-2.4] Identify activities to improve muscular strength and endurance in the upper and lower body.

v. [3.4-2.5] Demonstrate warm-up and cool down relative to cardiorespiratory fitness assessment.

vi. [3.4-2.6] Analyze the results of a fitness assessment to determine areas in the HFZ and those that need improvement.

vii. [3.4-2.7] Identify strategies for progress in fitness.

c. Fifth Grade

i. [3.5-2.1] Identify and apply frequency, intensity, time, and type (FITT) to a fitness plan.

ii. [3.5-2.2] Identify specific activities that could improve each health-related fitness component.

iii. [3.5-2.3] Interpret heart rate during physical activity and exercise to determine appropriate level of intensity.

iv. [3.5-2.4] Identify specific activities to improve muscular strength and endurance throughout the body.

v. [3.5-2.5] Identify warm-up and cool-down activities.

vi. [3.5-2.6] Perform a nationally recognized fitness assessment (pre and post) comparing results to fitness components for good health.

vii. [3.5-2.7] Identify strategies for progress in fitness areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§509. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is that the student will demonstrate responsible interpersonal behavior (peer-to-peer, student-to-teacher, student-to-referee) in a variety of physical activity contexts, environments, and facilities. The student will be able to give correct feedback respectfully to peers and willingly involve students with higher or lower skill ability into group projects/activities. The student will demonstrate appropriate etiquette and safety principles in a variety of physical activity settings.

B. Grade Level Expectations Grades 3-5

1. Self-Direction and Safety

a. Third Grade

i. [4.3-1.1] Exhibit personal responsibility in teacher-directed physical activities.

ii. [4.3-1.2] Identify and follow equipment-specific safety rules.

b. Fourth Grade

i. [4.4-1.1] Exhibit responsible behavior in small sided game activities.

ii. [4.4-1.2] Adjust performance to characteristics of the environment to ensure safe play.

iii. [4.4-1.3] Participate in team activities and stay on task with prompts and encouragement from others.

c. Fifth Grade

i. [4.5 1.1] Assess adherence to rules, etiquette, and fair play of various games and activities.

ii. [4.5-1.2] Model good sportsmanship to ensure safe play in team activities.

iii. [4.5-1.3] Demonstrate proper decision making skills while engaged in game activities.

2. Cooperation, Respect, and Resolving Conflict

a. Third Grade

i. [4.3-2.1] Work cooperatively with a partner or small group during class activities.

ii. [4.3-2.2] Cooperate with a partner or small group by taking turns and sharing equipment while participating in physical activities.

iii. [4.3-2.3] Demonstrate acceptance of the skill and ability of others through verbal and non-verbal communication during activities.

iv. [4.3-2.4] Demonstrate cooperation with others when resolving conflict during game play and sharing equipment.

b. Fourth Grade

i. [4.4-2.1] Listen, discuss options, and develop a plan to accomplish a partner or group task or to improve play during physical education activity.

ii. [4.4-2.2] Participate with a group in cooperative problem-solving activities while participating in physical activities.

iii. [4.4-2.3] Demonstrate cooperation with and respect for peers different from oneself during skills practice and within game play during physical activities.

iv. [4.4-2.4] Demonstrate cooperation with others when resolving conflict during skill practice and game play.

c. Fifth Grade

i. [4.5-2.1] Lead, follow, and support group members to improve play in cooperative activities and competitive settings.

ii. [4.5-2.2] Evaluate personal behavior during activities to ensure positive effects on others and increase cohesion of teams.

iii. [4.5-2.3] Demonstrate respectful and responsible behavior toward peers different from oneself during activity practices.

iv. [4.5-2.4] Demonstrate cooperation with others when resolving conflict during skills practice and game play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§511. Standard 5

A. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent: The intent of this standard is to develop a student who is able to compare the health benefits of a variety of physical activities. Students are able to express enjoyment and/or the willingness to participate in physical activities that are new and different. Students will view physical activity as an opportunity for social interaction across the lifespan.

B. Grade Level Expectations Grades 3-5

1. Health Reasons to be Physically Active

a. Third Grade

i. [5.3-1.1] Discuss the relationship between physical activity and good health.

b. Fourth Grade

i. [5.4-1.1] Examine the health benefits of participating in physical activity.

c. Fifth Grade

i. [5.5-1.1] Compare the health benefits of participation in selected physical activities.

2. Values Physical Activity through Various Means

a. Third Grade

i. [5.3-2.1] Identify reasons for enjoying a selected physical activity.

ii. [5.3-2.2] Verbalize the positive and negative aspects related to learning a new physical activity.

iii. [5.3-2.3] Describe the positive social interactions that comes when engaging with others in physical activity.

b. Fourth Grade

i. [5.4-2.1] Examine the health benefits of participating in physical activity.

ii. [5.4-2.2] Identify aspects of a physical activity that are challenging and mastered.

iii. [5.4-2.3] Describe and compare positive social interactions when engaged in partner, small group, and large group activities.

c. Fifth Grade

i. [5.5-2.1] Compare the health benefits of participation in selected physical activities.

ii. [5.5-2.2] Analyze the personal benefits of participation in an activity that is challenging.

iii. [5.5-2.3] Analyze the positive impact of verbal and non-verbal encouragement in physical activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§513. Standard 7

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

Chapter 7. Grades 6—8 Cluster Level

§701. Introduction

A. By the end of grade 8, the learner will:

1. apply tactics and strategies to modified game play;
2. demonstrate fundamental movement skills in a variety of contexts;
3. design and implement a health-enhancing fitness program;
4. participate in self-selected physical activity;
5. cooperate with and encourage classmates;
6. accept individual differences;
7. demonstrate inclusive behaviors; and
8. engage in physical activity for enjoyment and self-expression.

B. Physical education classes support student development of the necessary skills to achieve each standard and outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

C. Reading the Standards: There are five standards listed for middle school (grades 6-8) requirements for Louisiana students including daily physical education for students. In the standards below, the first number listed is the number of the corresponding standard. The second letter or number identifies to which grade level the statement pertains. Directly following the hyphen, the number listed states which component within that standard the statement refers. Lastly, the final number recognizes the grade level expectation (GLE). Here is how to interpret each coded outcome:

1. example. [1.6-1.3] Perform simple dance sequences:

a. 1 = the first number listed provides what standard is being identified; in this case, standard one. (This could be 1-5, depending on the standard);

b. 6 = the number or letter listed provides the level targeted; in this case, sixth grade;

c. 1 = the number or letter listed provides the component being targeted within the standard; in this case, the first component related to the standard;

d. 3 = this number listed provides the expectation within that component; in this case, the third expectation a student should be able to complete.

2. Note. Lesson plans, unit plans, and assessments that identify the standard being addressed will often cover and/or include more than one component outcome, and possibly more than one standard.

3. The following terms are used throughout the standards as performance indicators:

a. E = emerging—students participate in deliberate practice tasks that will lead to skill and knowledge acquisition;

b. M = maturing—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations, which will continue to be refined with practice;

c. A = applying—students can demonstrate the critical elements of the motor skills and knowledge components of the grade-level expectations in a variety of physical activity environments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§703. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is the development of the physical skills needed to enjoy participation in physical activities. Maturing movement fundamentals establish a foundation to facilitate the development of continued motor skill acquisition at all levels.

B. Grade Level Equivalents

1. Specialized Skills and Movement Patterns

a. [1.6-1.1] Demonstrate simple movement patterns in dance, gymnastics, or fitness.

b. [1.6-1.2] Demonstrate the critical elements of specialized locomotor and non-locomotor skills in a variety of movement forms in controlled settings.

c. [1.6-1.3] Perform simple dance sequences.

d. [1.7-1.1] Exhibit command of rhythm and timing by creating a movement sequence to music as an individual, with a partner, or in a small group.

e. [1.7-1.2] Demonstrate a routine that includes a variety of movement patterns in dance, gymnastics or fitness with an individual, with a partner or small group.

f. [1.8-1.1] Exhibit command of rhythm and timing by creating a movement sequence to music in a group by traveling, balance, and weight transfer into a smooth, flowing, coordinated sequence.

2. Invasion Games

a. Passing

i. [1.6-2.1] Demonstrate a mature passing pattern using hand, foot, or implement for accuracy during practice tasks.

ii. [1.7-2.1] Demonstrate a mature passing pattern using hand, foot, or implement for distance and accuracy in small-sided games.

iii. [1.8-2.1] Demonstrate sending an object to a target in controlled practice to achieve successful game-related outcomes.

b. Receiving

i. [1.6-3.1] Receive with a mature pattern using hand, foot, or implement in practice tasks.

ii. [1.7-3.1] Receive with a mature pattern using hand, foot, or implement in small-sided games.

iii. [1.8-3.1] Receive with a mature receiving pattern using an implement in small sided games.

c. Offensive Skills

i. [1.6-4.1] Demonstrate understanding of basic offensive tactics related to off-the-ball movements while participating in game-like settings.

ii. [1.6-4.2] Identify and perform offensive strategies while playing a modified version of a game or sport in small group activities.

iii. [1.7-4.1] Create space and position self in space to create scoring opportunities.

iv. [1.7-4.2] Execute at least one of the following designed to create open space during small-sided game play: pivots, fakes, and jab steps.

v. [1.7-4.3] Demonstrate offensive strategies used while playing a basic version of a team or individual sport.

vi. [1.8-4.1] Execute at least two of the following to create open space during modified game play: pivots, fakes, jab steps, give-and-go, V-cuts, and/or screens.

vii. [1.8-4.2] Applies basic offensive strategies in a modified version of a team or individual sport.

d. Dribbling and Ball Control with Hands

i. [1.6-5.1] Dribble with dominant hand using a change of speed and direction in a variety of practice tasks.

ii. [1.7-5.1] Dribble with dominant and non-dominant hand using a change of speed and direction in a variety of practice tasks.

iii. [1.8-5.1] Dribble with dominant and non-dominant hand using a change of speed and direction in small-sided game play.

e. Dribbling and Ball Control with Feet

i. [1.6-6.1] Foot-dribble or dribble with an implement with control, changing speed and direction in a variety of practice tasks.

ii. [1.7-6.1] Foot-dribble or dribble with an implement combined with passing in a variety of practice tasks.

iii. [1.8-6.1] Foot dribble or dribble with an implement with control, changing speed and direction during small-sided game play.

f. Shooting on Goal

i. [1.6-7.1] Shoot on goal with power in a dynamic environment as appropriate to the activity.

ii. [1.7-7.1] Shoot on goal with power and accuracy in a variety of practice tasks.

iii. [1.8-7.1] Shoot on goal with or without an implement with power and accuracy during small-sided game play.

g. Defensive Skills

i. [1.6-8.1] Demonstrate the skill cues for the defensive ready position (weight on balls of feet, arms extended, and eyes on midsection of the offensive player).

ii. [1.7-8.1] Slide in all directions while on defense without crossing feet.

iii. [1.8-8.1] Maintain defensive ready position appropriate to the sport in a small-sided invasion game.

3. Net/Wall Games

a. Serving

i. [1.6-9.1] Perform a legal underhand serve with control for net/wall games.

ii. [1.7-9.1] Execute consistently (at least 70 percent of the time) a legal underhand serve to a predetermined target for net/wall games.

iii. [1.8-9.1] Execute consistently (at least 70 percent of the time) a legal underhand serve for distance and accuracy for net/wall games.

b. Striking

i. [1.6-10.1] Strike with a mature overarm pattern in a net/wall game during practice tasks.

ii. [1.7-10.1] Strike with a mature overarm pattern in a net/wall game during singles, doubles, and small-sided games.

iii. [1.8-10.1] Strike with a mature overarm pattern in a net/wall game during singles, doubles, and small-sided games.

c. Forehand and Backhand

i. [1.6-11.1] Demonstrate the mature form of forehand and backhand strokes with a short-handled implement in net games in practice task.

ii. [1.7-11.1] Demonstrate the mature form of forehand and backhand strokes with a long-handled implement in net games in singles or doubles.

iii. [1.8-11.1] Demonstrate the mature form of forehand and backhand strokes with a short- or long-handled implement with power and accuracy in net games in singles or doubles.

d. Weight Transfer

i. [1.6-12.1] Transfer weight with correct timing for the striking pattern.

ii. [1.7-12.1] Transfer weight with correct timing using a low-to-high striking pattern with a short-handled implement on the forehand/backhand side.

iii. [1.8-12.1] Transfer weight with correct timing using low to high striking pattern with a short- or long-handed implement on the forehand or backhand side.

e. Volley

i. [1.6-13.1] Volley with mature form and control using a body part or a short-handled implement during practice task.

ii. [1.7-13.1] Volley with a mature form and control using a body part or a short-handled implement during singles, doubles, or a small-sided game.

iii. [1.8-13.1] Volley with a mature form and control using a body part or a short-handled implement during singles, doubles, or a small-sided game.

4. Target Games

a. Underhand Pattern

i. [1.6-14.1] Demonstrate a mature underhand pattern for modified target games.

ii. [1.7-14.1] Execute consistently (70 percent of the time) a mature underhand pattern for target games.

iii. [1.8-14.1] Perform consistently (70 percent of the time) a mature underhand pattern with accuracy and control for target games.

b. Striking

i. [1.6-15.1] Strike, with an implement, a stationary object for accuracy in activities.

ii. [1.7-15.1] Strike, with an implement, a stationary object for accuracy and distance in activities.

iii. [1.8-15.1] Strike, with an implement, a stationary object for accuracy, distance, and power.

5. Fielding and Striking Games

a. Striking

i. [1.6-16.1] Strike a pitched ball with an implement with force in a variety of practice tasks.

ii. [1.7-16.1] Strike a pitched ball with an implement for power to open space in a variety of practice tasks.

iii. [1.8-16.1] Strike pitched ball with an implement for power to open space in a variety of small-sided games.

b. Catching

i. [1.6-17.1] Catch, with mature pattern, from different trajectories using a variety of objects in varying practice tasks.

ii. [1.7-17.1] Catch, with a mature pattern, from different trajectories in a small-sided game play.

iii. [1.8-17.1] Catch, with or without an implement, from different trajectories and speeds in a dynamic environment or in small-sided game play.

6. Lifetime Activities

a. [1.6-18.1] Demonstrate correct technique for basic skills in at least one self-selected individual or group lifetime activity.

b. [1.7-18.1] Demonstrate correct technique for a variety of skills in at least one self-selected individual or group lifetime activity.

c. [1.8-18.1] Demonstrate correct technique for basic skills on at least two self- selected individual or group lifetime activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§705. Standard 2

A. The physically literate individual applies knowledge of concepts, principles, strategies. and tactics related to movement and performance.

1. Intent. The intent of this standard is the facilitation of student ability to use cognitive information to understand and enhance motor skill acquisition and performance. Students use performance feedback to increase cognitive understanding of a skill as well as to improve performance. Students learn more complex motor skills and transfer the knowledge learned for a higher performance and skill level.

B. Grade Level Equivalents

1. Invasion Games

a. Offensive Tactics

i. [2.6-1.1] Demonstrate creating open space moving to open space without the ball and/or using a variety of passes, pivots, and fakes.

ii. [2.7-1.1] Demonstrate creating open space by staying spread out on offense and cutting and passing quickly.

iii. [2.8-1.1] Demonstrate creating open space by using a give-and-go and using fakes off the ball.

b. Defensive Tactics

i. [2.6-2.1] Demonstrate reducing open space on defense by crashing the passer to reduce passing angles.

ii. [2.7-2.1] Demonstrate reducing open space on defense by staying within arms-length of the opponent between the opponent and the goal.

iii. [2.8-2.1] Demonstrate reducing open space on defense by anticipating the speed of the object or person for the purpose of interception or deflection.

2. Net and Wall Games

a. Creating Space

i. [2.6-3.1] Demonstrate creating open space by moving opponent more than one step in either direction.

ii. [2.7-3.1] Demonstrate creating open space by moving opponent from side to side and/or forward and backward.

iii. [2.8-3.1] Demonstrate creating open space by varying force while moving opponent from side to side and/or forward and backward.

b. Tactics and Shots

i. [2.6-4.1] Demonstrate the ability to return to a home or center position to reduce offensive options for opponents.

ii. [2.7-4.1] Demonstrate one or more offensive shots based on an opponent's location.

iii. [2.8-4.1] Demonstrate one or more offensive shots using placement, force, or timing to win a rally.

3. Fielding and Striking Games

a. Offensive Tactics

i. [2.6-5.1] Identify open spaces and demonstrate the ability to strike an object into an open space.

ii. [2.7-5.1] Demonstrate a variety of shots to open space.

iii. [2.8-5.1] Demonstrate a variety of shots to open space during small-sided game play.

b. Defensive Tactics

i. [2.6-6.1] Identify a defensive play based on a game situation/scenario.

ii. [2.7-6.1] Demonstrate a defensive play when put in a game situation/scenario.

iii. [2.8-6.1] Demonstrate a defensive play during small-sided game play.

4. Target Games

a. Shot Selection

i. [2.6-7.1] Identify an appropriate shot or club based on location of the target or the score of the game.

ii. [2.7-7.1] Describe an appropriate shot based on the location of the target or the score of the game by varying the speed, force, or trajectory of the object.

iii. [2.8-7.1] Demonstrate an appropriate shot based on the location of the target or the score of the game by varying the speed, force, or trajectory of the object.

5. Individual Performance

a. Movement Concepts

i. [2.6-8.1] Demonstrate a varied application of force during individual performance activities.

ii. [2.7-8.1] Describe Newton's first law of motion in one or more individual performance activities.

iii. [2.8-8.1] Evaluate the mechanical principles for a variety of movement patterns and skills to improve performance of self or others.

6. Individual and Lifetime Activities

a. Decision-Making

i. [2.6-9.1] Make appropriate decisions based on weather, level of difficulty due to conditions, or ability to ensure safety of self and others.

ii. [2.7-9.1] Analyze the situation and make adjustments to ensure safety of self and others.

iii. [2.8-9.1] Implement safe protocols in self-selected activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§707. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness.

1. Intent. The intent of this standard is the development of student knowledge, skills, and willingness to accept responsibility for personal fitness, leading to an active, healthy lifestyle. Health-related fitness components include cardiovascular fitness, muscular strength and endurance, flexibility, and body composition. Expectations for student fitness levels should be established on a personal basis rather than setting a single standard for all students at a given grade level. Moreover, a student becomes more skilled in the ability to self-assess, plan, perform, interpret results, and monitor physical activities appropriate for developing a health-enhancing level of physical fitness.

B. Grade Level Equivalents

1. Benefits of Activity

a. [3.6-1.1] Describe how being physically active leads to positive physical health benefits.

b. [3.7-1.1] Analyze the relationship between physical activity levels and mental health.

c. [3.8-1.1] Explain the connections between the five health-related fitness components (cardiovascular endurance, muscular endurance, muscular strength, flexibility, body composition) and overall physical, mental, and emotional health.

2. Evaluates Physical Activity

a. [3.6-2.1] Collect and reflect on personal physical activity assessment data.

b. [3.7-2.1] Collect and analyze personal physical activity assessment data to develop a plan to improve or maintain physical activity levels.

c. [3.8-2.1] Implement a plan to improve or maintain physical activity levels based on personal physical activity assessment data.

3. Health and Skill Related Fitness

a. [3.6-3.1] Identify the components of health-related (cardiovascular endurance, muscular endurance, muscular strength, flexibility, body composition) and skill-related fitness (balance, coordination, reaction time, agility, power, speed).

b. [3.7-3.1] Describe the health-related and skill-related fitness components.

c. [3.8-3.1] Compare and contrast the health-related and skill-related fitness components.

4. Principles of Training

a. [3.6-4.1] Identify the principles of training (specificity, overload, and progression).

b. [3.7-4.1] Describe the principles of training.

c. [3.8-4.1] Analyze a fitness plan for the principles of training.

5. Frequency, Intensity, Time, and Type (FITT) Principles

a. [3.6-5.1] Identify each of the components of the FITT Principle (frequency, intensity, time and type)

b. [3.7-5.1] Describe the FITT principle for the following components of health-related fitness: cardiovascular endurance, muscular endurance, muscular strength, and flexibility.

c. [3.8-5.1] Develop a personal workout plan using the FITT Principle for one of the health-related fitness components.

6. Phases of Exercise

a. [3.6-6.1] Describe the role of warm-up and cool-down regimens used for participation in physical activity.

b. [3.7-6.1] Design a warm up and cool down routine for a class or self-selected physical activity.

c. [3.8-6.1] Implement a personal or group warm up or cool down routine for a class or self-selected physical activity.

7. Heart Rate

a. [3.6-7.1] Describe the differences between active and resting heart rate.

b. [3.7-7.1] Calculate/find pulse and use the rating of perceived exertion (RPE) for activities of different intensities.

c. [3.8-7.1] Analyze the relationship between pulse and RPE for activities of different intensities.

8. Body Systems

a. [3.6-8.1] Identify major muscle groups used in selected physical activities. Identify the role of major body systems (respiratory, muscular, and skeletal).

b. [3.7-8.1] Describe the mechanisms behind movement of large muscle groups.

c. [3.8-8.1] Explain the role of the respiratory, muscular, and skeletal systems and the interactions during physical activity.

9. Technology

a. [3.6-9.1] Identify and/or use technology to monitor fitness.

b. [3.7-9.1] Describe the benefits of and/or uses technology to monitor fitness.

c. [3.8-9.1] Apply the use of various forms of technology to the concept of monitoring fitness and/or use various forms of technology to monitor fitness.

10. Assessment and Program Planning

a. [3.6-10.1] Develop SMART (specific, measurable, attainable, realistic, and timely) goals for improving or maintaining all areas of health-related fitness (cardiovascular endurance, muscular endurance, muscular strength, flexibility, and body composition) based on fitness assessment results.

b. [3.7-10.1] Uses SMART goals to design a personal workout plan based on results of at least two health-related fitness assessments.

c. [3.8-10.1] Design and implement a personal workout plan based on results of at least two health-related fitness assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§709. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is to reflect development towards self-initiated behaviors that promote personal and group success in all physical activities that can be transferred to college, career, and life. These behaviors

include but are not limited to safe practices, adherence to rules and procedures, etiquette, cooperation, teamwork, ethical behavior, and positive social interaction and inclusion, and also include respect toward teachers, other students, and the environment. Key to the standard is developing respect and appreciation for individual similarities and differences among participants in physical activity.

B. Grade Level Equivalents

1. Personal Responsibility

a. [4.6-1.1] Exhibit personal responsibility by using appropriate etiquette, demonstrating respect for facilities, and exhibiting safe behaviors in a physical education setting.

b. [4.7-1.1] Exhibit responsible social behaviors by cooperating with classmates, demonstrating inclusive behaviors, and supporting classmates in physical education activities.

c. [4.8-1.1] Accept responsibility for individual improvement of levels physical activity and fitness.

d. [4.6-2.1] Identify and use appropriate strategies to self-reinforce positive fitness behaviors, such as positive self-talk.

e. [4.7-2.1] Demonstrate both intrinsic and extrinsic motivation by selecting opportunities to participate in physical activity outside of class.

f. [4.8-2.1] Use effective self-monitoring skills to incorporate opportunities for physical activity in and out of school setting.

2. Providing and Receiving Feedback

a. [4.6-3.1] Demonstrate self-responsibility by modifying performance utilizing specific corrective feedback to improve execution during skill practice.

b. [4.7-3.1] Observe and analyze the performance of other students to provide corrective feedback using teacher-generated guidelines while practicing a variety of skills.

c. [4.8-3.1] Demonstrate the ability to provide positive encouragement and corrective feedback to peers without prompting from the teacher during play, practice, or discussions in a physical activity setting.

3. Working with Others

a. Conflict Resolution

i. [4.6-4.1] Accept differences among classmates in physical development, maturation, and varying skill levels by providing encouragement and positive feedback during skill practice, game play, and dance activities.

ii. [4.7-4.1] Demonstrate cooperation skills by establishing rules and guidelines for resolving conflicts during physical education activities.

iii. [4.8-4.1] Respond appropriately to ethical and unethical behavior of participants during physical activity by using the rules and guidelines for conflict resolution as established by the teacher.

b. Cooperation and Accepting Others

i. [4.6-5.1] Cooperate with others of different genders, cultures, ethnicities, abilities, and skill levels in physical activity settings.

ii. [4.7-5.1] Participate in a sport, game, and/or dance as a means to interact with individuals of diverse backgrounds.

iii. [4.8-5.1] Contribute positively to team building and/or problem solving activities.

4. Rules and Etiquette

a. [4.6-6.1] Demonstrate basic rules and etiquette during individual and group physical activities (dance, individual, team, and lifetime).

b. [4.7-6.1] Demonstrate understanding of rules and etiquette by self-directing physical activities (dance, individual, team, and lifetime).

c. [4.8-6.1] Apply rules and etiquette by acting as an official for physical activities (dance, individual, team, and lifetime).

5. Safety

a. [4.6-7.1] Use physical activity and fitness equipment appropriately and safely, and follow safety protocols with teacher guidance.

b. [4.7-7.1] Use independently physical activity and fitness equipment appropriately, and independently follow safety protocols.

c. [4.8-7.1] Identify specific safety concerns associated with physical activity and fitness equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§711. Standard 5

A. The physically literate individual recognizes the value of physical activity for health, enjoyment, challenge, self-expression, and/or social interaction.

1. Intent. This standard reflects the development of an awareness of intrinsic values and benefits of participation in physical activity that provides personal meaning. Physical activity can be enjoyable, challenging, and fun, and provides opportunities for self-expression and social interaction. These benefits can develop self-confidence, promote a positive self-image, and continue a healthy, active lifestyle. As a result of these benefits of participation, students will begin to actively pursue life-long physical activities that meet their own needs.

B. Grade Level Equivalents

1. Challenge

a. [5.6-1.1] Identify a specific activity that is played because the student finds it challenging.

b. [5.7-1.1] Develop solutions and strategies for overcoming challenges faced in physical activity settings.

c. [5.8-1.1] Apply strategies for overcoming individual or group challenges in a physical activity setting.

2. Self-Expression and Enjoyment

a. [5.6-2.1] Describe how physical activity provides the opportunity for enjoyment and self-expression, and identify strategies that can be used to increase enjoyment and/or self-expression.

b. [5.7-2.1] Explain the relationship between self-expression and lifelong enjoyment through physical activity.

c. [5.8-2.1] Select to participate in an enjoyable activity that prompts individual self-expression.

3. Social Interaction

a. [5.6-3.1] Identify a specific physical activity in which a student participates because of the opportunity for social interaction.

b. [5.7-3.1] Analyze specific physical activities for the opportunity for social interaction.

c. [5.8-3.1] Discuss the social benefits of participating in a self-selected physical activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§713. Standard 7

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

Chapter 9. Grades 9—12 Cluster Level

§901. Introduction

A. The Louisiana physical education content standards were developed to provide physical education teachers, administrators, and parents a guide to understanding and interpreting physical education for the future. This new view on physical education places a greater emphasis on participating in regular physical activity (PA) and creating plans for lifelong fitness. High school physical education seeks to develop students who acquire knowledge and understand the implications and benefits of PA by providing students with the opportunity to develop physical, cognitive, and social competency through participation in team/individual sports and lifetime activities. The characteristics of high school physical education are intended to produce physically literate individuals with intentions of maintaining lifelong health (SHAPE, 2014). Based on the developmental stage of the students, as well as the goal of lifelong health, the following items should be taught, emphasized, and incorporated through a variety of lifetime activities in high school physical education: The five health-related fitness components (i.e., body composition, cardiovascular endurance, flexibility, muscular strength, and muscular endurance), FITT (i.e., frequency, intensity, time, and type) principles, and basic training principles (e.g., overload, progression, and specificity).

B. Standards provide criteria for students and other stake holders that represent what students should know and be able to do. Therefore, with careful planning and proper assessment the following standards will show what students have achieved by graduation from high school.

C. Physical education classes support students in developing the necessary skills to achieve each standard and outcome at a proficient level. Dodgeball and drills that may lead to aggressive behaviors shall be closely supervised and shall emphasize overall physical fitness while supporting the emotional and physical safety of the students.

D. Reading the Standards. There are five standards listed for high school physical education (grades 9-12). High school requirements for Louisiana students include 1.5 units of physical education, meaning two full compulsory semesters. In the standards below, level 1 represents the first year or unit of required physical education and level 2 represents the standards that should be completed in the second year or unit of physical education. Within each standard is a series of components that represent the subareas that fall within each of the given standards. Lastly, there is at least one outcome that represents each of the components. When all outcomes are completed through practice and assessment, one can infer a standard has been met. Here is how to interpret each coded outcome:

1. example. [1.HS1-3] Demonstrate competency in movement skills in at least one physical activity (yoga, jogging/running, weight training, etc.) that helps improve health-related fitness:

a. 1 = the first number listed provides what standard is being identified; in this case, standard one. (This could be 1-5, depending on the standard.);

b. HS1 = the number listed provides the level or semester of required physical education targeted. In this case, high school level 1 is represented, as is the first required semester of physical education standards and outcomes. Other possible codes could be HS2, meaning the outcomes represented at the component level for each standard in the level 2 category;

c. following the dash (-), all things on the right side identify the component and grade-level expectation;

d. 3 = the number listed provides the component being targeted within the standard; in this case, component 3 of standard one is being targeted (number depends on how many components are presented in the particular standard);

e. if another number is listed on the right side of the dash (-) following the component (e.g. 3.2), that indicates more than one grade level expectation (GLE) for that specific component;

f. note. Lesson plans, unit plans, and assessments that identify the standard being addressed will often cover and/or include more than one component outcome, and possibly more than one standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§903. Standard 1

A. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns.

1. Intent. The intent of this standard is the development of the physical skills needed to enjoy participation in physical activities. Maturing movement fundamentals is solidifying a high school student's foundational movement. Continued skill acquisition is encouraged in a variety of activities that may be new to students, who will be expected to gain proficiency in those targeted skills.

B. Grade Level Expectations High School

1. Level 1

a. Games and Sports

i. [1.HS1-1] Demonstrate competency in movement forms (throwing, catching, dribbling, volleying, etc.) and manipulative skills (striking with an implement) in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits

i. [1.HS1-2] Demonstrate competency in activity-specific skills in at least one non-traditional physical activity (yoga, aquatics, rock climbing, geocaching, disc golf, dancing, fishing, camping, canoeing, archery, etc.).

c. Health Related Fitness

i. [HS1-3] Demonstrate competency in movement skills in at least one physical activity (yoga, jogging/running, weight training, etc.) that helps improve health-related fitness.

2. Level 2

a. Games and Sports

i. [1.HS2-1] Demonstrate competency in a different skill from level 1 (throwing, catching, dribbling, volleying, etc.) and manipulative skills (striking with an implement) in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits

i. [1.HS2-2] Demonstrate competency in a different activity-specific skills in at least one non-traditional physical activity not demonstrated in level 1 (yoga, aquatics, rock climbing, geocaching, disc golf, dancing, fishing, camping, canoeing, archery, etc.)

c. Health Related Fitness

i. [1.HS2-3] Demonstrate competency in advanced movement skills, different from level 1, in at least one physical activity (yoga, jogging/running, weight training, etc.) that helps maintain health-related fitness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§905. Standard 2

A. The physically literate individual applies knowledge of concepts, principles, strategies, and tactics related to movement and performance.

1. Intent. The intent of this standard is the facilitation of the student ability to use cognitive information to enhance motor skill acquisition and performance experienced in the grade levels leading up to high school. Students use performance feedback and self-analysis to increase the cognitive understanding of a skill or principle with the goal of improving performance. As complexity increases, students will learn to transfer knowledge and cognitive skills for performance outside of school.

B. Grade Level Expectations High School

1. Level 1

a. Games and Sports

i. [2.HS1-1] Describe principles and tactics (offense, defense, etc.) to participate successfully in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits

i. [2.HS1-2] Describe and implement core concepts and principles to participate successfully in at least one non-traditional activity (yoga, aquatics, rock climbing, geocaching, disc golf, dancing, fishing, camping, canoeing, archery, etc.).

2. Level 2

a. Games and Sports

i. [2.HS2-1] Apply tactics and strategies (offense, defense, etc.) in at least one team and one individual sports, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Lifetime Activity Pursuits

i. [2.HS2-2] Analyze and evaluate performance of self and others for proper technique and efficiency in at least one non-traditional activity (yoga, aquatics, rock climbing, geocaching, dancing, fishing, camping, canoeing, archery, disc golf, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§907. Standard 3

A. The physically literate individual demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity.

1. Intent. The intent of this standard is the development of student knowledge, skills, and willingness to accept responsibility for personal fitness. Health-relating fitness components, FITT, and training principles will guide student ability to plan and execute goals for active and healthy living. Expectations for student fitness levels should be established on a personal basis rather than setting a single standard for all students at a given grade level. Students at the HS level will solidify the ability to self-assess, plan, perform, interpret, and monitor physical activity decisions for appropriate health-enhancing levels of physical fitness.

B. Grade Level Expectations High School

1. Level 1

a. Fitness in Games and Sports

i. [3.HS1-1] Identify different health-related fitness principles needed for gameplay in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.).

b. Individual Health-Related Fitness

i. [3.HS1-2] Analyze current physical fitness levels and develop goals to improve or maintain a physically healthy lifestyle.

c. Lifetime Activity Pursuits

i. [3.HS1-3] Evaluate safety and risks of lifetime activities one could pursue for fitness throughout the lifespan.

d. Physical Activity and Fitness in the Community

i. [3.HS1-4] Identify physical activities and facilities in the community that one can pursue to meet fitness goals.

e. Fitness and Planning

i. [3.HS1-5] Design and implement a personal fitness plan to maintain or improve ones' personal fitness using fitness assessment scores, health-related fitness principles, FITT principle, and basic training principles.

2. Level 2

a. Fitness in Games and Sports

i. [3.HS2-1] Incorporate health-related fitness principles needed for gameplay in at least one team and one individual sport, respectively (invasion, net/wall, field/striking, target, track and field, etc.

b. Individual Health Related Fitness

i. [3.HS2-2] Evaluate goals to improve or maintain a physically health lifestyle after graduating from high school.

c. Lifetime Activity Pursuits

i. [3.HS2-3] Evaluate barriers to pursuing lifetime activities through the lifespan and strategies to overcome them.

d. Physical Activity and Fitness in the Community

i. [3.HS2-4] Develop a physical fitness and/or health plan using community resources (facilities, clubs, programs, etc.) to maintain or improve one's fitness goals.

e. Fitness and Planning

i. [3.HS2-5] Use fitness assessment scores (i.e. health-related fitness principles, FITT principle, and basic training principles), to revise personal fitness plan with the goal of maintaining a health and active lifestyle after graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§909. Standard 4

A. The physically literate individual exhibits responsible personal and social behavior that respects self and others.

1. Intent. The intent of this standard is to reflect development of self-initiated behaviors that promote personal and group success in all physical activities that can be transferred to college, career, and life. These behaviors include, but are not limited to, sage practices, adherence to rules and procedures, cooperation, teamwork, ethical behavior, and positive social interaction and inclusion.

B. Grade Level Equivalents

1. Level 1

a. Personal Responsibility

i. [4.HS1-1] Identify benefits and barriers of activities and modify physical activity patterns as needed.

b. Social Responsibility

i. [4.HS1-2.1] Demonstrate skills such as communication, problem solving, and critical thinking while working with others in a physical activity setting.

ii. [4.HS1-2.2] Accept other values, ideas, skill level, body type, and cultural diversity while engaging with others in the physical activity setting.

c. Safety and Etiquette

i. [4.HS1-3.1] Apply safe practices that best fit the physical activity or exercise.

ii. [4.HS1-3.2] Apply proper etiquette required for the environment of a specialized activity setting.

2. Level 2

a. Personal Responsibility

i. [4.HS2-1] Demonstrate self-direction and management through records of in class and out of class physical activity choices.

b. Social Responsibility

i. [4.HS2-2] Identify ways to modify group physical education activities or behaviors to accommodate for individuals with lessor or greater skills or special needs.

c. Safety and Etiquette

i. [4.HS2-3.1] Identify unsafe practices and offer appropriate alternatives in physical activity settings..

ii. [4.HS2-3.2] Examine moral and ethical conduct in cooperative and/or competitive situations in physical education settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§911. Standard 5

A. The physically literate individual will recognize the value of physical activity for health, enjoyment, challenge, self-expression, and social interaction.

1. Intent. The intent of this standard is to reflect the development of an awareness of the benefits and implications that physical activity provides and promote intrinsic values through personal meaning. Physical activity can be enjoyable, challenging, and fun, and provides opportunities for self-expression and social interaction. These benefits can develop self-confidence, promote positive self-image, and continue toward a healthy active lifestyle. As a result of these benefits of participation and internalization, students will begin to actively pursue life-long physical activities that meet individual needs.

B. Grade Level Expectations High School

1. Level 1

a. Health

i. [5.HS1-1] Analyze the value and benefits of a self-selected physical activity to physical health.

b. Challenge

i. [5.HS1-2.1] Identify the challenges of learning a new activity.

ii. [5.HS1-2.2] Choose an appropriate level of challenge to experience success in a physical activity.

c. Self-Expression and Enjoyment

i. [5.HS1-3] Select an activity that meets the need for self-expression.

d. Social Interaction

i. [5.HS1-4] Identify the benefits of social groups and interactions while participating in physical activities.

2. Level 2

a. Health

i. [5.HS2-1] Analyze the value and benefits of a self-selected physical activity to mental and emotional health.

b. Challenge

i. [5.HS2-2] Express the feelings associated with participating in physical activities that are optimally challenging.

c. Self-Expression and Enjoyment

i. [5.HS2-3] Explain activities that would be enjoyable for lifetime physical activity pursuits.

d. Social Interaction

i. [5.HS2-4] Evaluate opportunities for social interaction and social support in self-selected physical activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), amended LR 43:

§913. Standard 7

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

Chapter 11. Glossary

§1101. Definitions

Aerobic Activity—any sustained exercise that stimulates and strengthens the heart and lungs, thereby improving the body's use of oxygen. Examples of aerobic exercise include jogging, rowing, swimming, or cycling.

Aerobic Capacity—the maximum rate at which the body or an individual muscle can take up and use oxygen from the air; also known as maximal oxygen consumption (uptake) or VO_2 max.

Affective—traits and feelings associated with social, personal, and emotional development.

Agility—the ability to change direction quickly while the body is in motion.

Anaerobic Activity—any short-duration exercise that is powered primarily by metabolic pathways that do not use oxygen. Examples of anaerobic exercise include sprinting and weight lifting.

Body Composition—the proportion of fat-free mass (e.g., muscle, bone, organs, and tissues) to fat mass in the body.

Body Mass Index (BMI)—formula used to assess body fat based on a ratio between height and weight.

Cardiovascular Endurance—a component of health-related fitness that describes the ability of the heart, blood vessels, and respiratory system to supply oxygen and nutrients to the muscles during exercise.

Circuit Training—training that involves several different exercises or activities. This type of training allows variation in the intensity or type of activity from station to station.

Closed Skills—motor skills that are performed in an environment that is stable and predictable.

Competency—the development of sufficient skill and knowledge to enjoy participation in the activity at a recreational level. For example, a person is considered competent in performing psycho- motor skills when he/she can perform the task consistently with good technique.

Complex Movement Sequences—movements that require a combination of motor skills.

Components of Health-Related Fitness—aspects of physical fitness that help one stay healthy. Examples include:

1. *body composition*—all of the tissues that together make up the body: bone, muscle, skin, fat, and body organs;
2. *cardiovascular endurance*—the ability of the heart, lungs, and blood vessels to use and send fuel and oxygen to the body's tissues during long periods of moderate-to-vigorous activity;
3. *flexibility*—the ability to move the joints through a full range of motion;
4. *muscular skeletal endurance and strength*—the ability of the muscles to perform physical tasks over a period of time without becoming fatigued, and the amount of force a muscle can exert.

Components of Skill-Related Fitness—aspects of physical fitness that help one perform well in sports and other activities that require certain physical skills. Examples include:

1. *agility*—the ability to change body position quickly and to control one's physical movements;
2. *balance*—the ability to keep an upright posture while stationary or moving;
3. *coordination*—the ability to use senses together with body parts, or to use two or more body parts together;
4. *power*—the ability to use strength quickly;
5. *reaction time*—the ability to react or respond quickly to what one hears, sees, or feels;
6. *speed*—the ability to perform a movement or cover a distance in a short period of time.

Cool-Down—a period of light activity following exercise that allows the body to return to near resting.

Cooperative—working or acting together for a common purpose.

Coordination—the ability to use different parts of the body together smoothly and efficiently.

Defense—a means or method of defending or protecting.

Developmentally Appropriate Activities—activities that are appropriately based on a student's developmental level, age, ability level, interests, and previous experience and knowledge.

Directions—refers to movement concepts of forward, backward, sideways, right, left, up, down, clockwise and counter clockwise.

Effort—defines how the body moves and consists of three components: *time* (faster or slower), *force* (harder or softer), and *flow* (bound or free).

Emerging Pattern—the beginning stage of acquiring motor skills and knowledge.

Exercise—physical activity that is planned, structured, and repetitive, and results in the improvement or maintenance of personal fitness.

FITT—frequency, intensity, time, and type. Four key ways that activity can be manipulated to create a desired health related fitness outcome.

Field/Striking Games—games in which one team occupies positions throughout the space (field) and the other team tries to score by batting or striking an object into open space, with enough time for the hitter to run between bases (or wickets).

Fine Motor Skills—small muscle group movements used for accuracy.

Fitness Plan—a plan developed after a self-assessment of the health related components of fitness. The plan should include the principles of overload, progression, specificity, regularity, and individuality along with the FITT guidelines.

Fleeing—traveling quickly away from a pursuing person or object.

Flexibility—the ability to move the joints through the full range of motion.

Flow—indicates a constant movement rate (slow, medium or fast).

Force—the effort or tension generated through muscle contraction during a push or pull action.

Formative Assessment—an initial or intermediate evaluation that occurs throughout an instructional process in the forms of teacher observation, peer observation, rating, checklists, and so forth, and involves both the teacher and the student in reflection and review of progress. The evaluation is used to improve learning and performance and to provide feedback and enables a student to target weaknesses.

Fundamental Motor Skill—foundation movements that are precursor patterns to the more specialized, complex skills

(body management skills, locomotor skills, and manipulative skills) that are used in play, games, sports, dance, gymnastics, outdoor education, and physical recreation.

GLE—grade level expectation.

Games—

1. *invasion games*—games in which teams score by moving an object into another team's territory and either shooting into a fixed target (a goal or basket) or moving the object across an open-ended target (a line);

2. *net/wall games*—team or players score by hitting a ball into open court space with accuracy so the opponent cannot return it back before bouncing once (i.e. volleyball or badminton) or twice (i.e. tennis or racquetball;

3. *striking/fielding games*—games in which players on the batting team must strike an object with accuracy to elude players on the fielding teach (i.e. baseball, cricket), which provides the hitter time to run between safe destinations (i.e. bases or wickets);

4. *target games*—games in which players score by throwing or striking an object to a target, which can be opposed (i.e. shuffleboard) or unopposed (i.e. golf).

General Space—the area outside of an individual's personal space and within the boundaries of movement, such as in a classroom, field, or gym.

HFZ—healthy fitness zone.

Health-Enhancing Physical Activity—activity that, when added to baseline activity, produces health benefits. Brisk walking, jumping rope, dancing, tennis, soccer, lifting weights, climbing on playground equipment at recess, and doing yoga are all examples of health-enhancing physical activity.

Health-Related Fitness—level of physiological functioning in:

1. cardiovascular endurance;
2. strength;
3. muscular endurance;
4. flexibility; and
5. body composition.

Heart Rate—the number of heartbeats occurring within a specified length of time

Implement—device used in the performance of a manipulative task.

Indicators of Health—physical, mental, emotional, and social functioning.

Individuality—the training principle that takes into account that each person begins at a different level of fitness, each person has personal goals and objectives for physical activity and fitness, and each person has different genetic potential for change.

Individual-Performance Activities—activities that do not involve teamwork.

Intrinsic Motivation—a desire to seek out new things and new challenges that is driven by personal interest or enjoyment in the task and does not rely on external pressures or a desire for reward.

Isokinetic—relating to muscular action with a constant rate of movement.

Isometric Exercise—an action in which a muscle generates tension without changing length.

Isotonic Contraction—an action in which tension remains constant, despite a change in muscle length.

Leading Pass—a throw in which a manipulative is thrown ahead of the intended receiver so that the receiver can catch the manipulative while in motion.

Lead-Up Activity/Game—an activity or modified game developed to limit the number of skills needed for successful participation.

Level—refers to the movement concepts of high, medium, and low.

Lifestyle Activities—physical activities that a person carries out in the course of daily life and that can contribute to sizeable energy expenditure.

Lifetime Activity—an activity that is suitable for participation across the lifespan.

Locomotor Skill/Movements—basic movements performed while moving the body from place to place.

MVPA—moderate to vigorous physical activity.

Manipulative—an object designed to be moved by hand as a means of developing motor skills.

Manipulative Movements—basic motor skills involving handling an object. Examples include throwing, catching, kicking, rolling, dribbling, trapping, striking, and volleying.

Manipulative Skill—movement done to or with objects with hands, or involving the feet, hands, or other parts of the body.

Mastery—showing great skill or knowledge.

Mature Form—performance of critical elements of a skill in a smooth and continuous motion.

Maximum Heart Rate (*MHR*)—the fastest rate at which a heart will beat in one minute.

Modified Games—games in which the rules have been modified to emphasize use of specific skills, maximize physical activity and /or practice opportunities.

Motor Skill Combinations—actions involving two or more different motor skills, including gross motor skills and fine motor skills:

1. *continuous skills*—actions repeated one after another such as basketball dribble, and do not have a clearly defined beginning and end;

2. *discrete skills*—actions unconnected to other skills such as the volleyball pass, and have a clear beginning and end.

Movement Challenge—a movement task that involves problem solving.

Movement Concepts—knowledge and understanding of movement such as body awareness (what the body can do), space awareness (where does the body move), qualities of movement (how does the body move), and relationships (with whom and with what does the body move).

Muscular Endurance—the ability of the muscles to perform physical tasks over a period of time without becoming fatigued.

Muscular Strength—the maximal force that one can exert when contracting muscles.

Musculoskeletal Fitness—a combination of muscular strength, muscular endurance, and power.

MyPlate—a food guidance system that translates nutritional recommendations into the types and amounts of food to eat each day; a widely recognized nutrition education tool. See ChooseMyPlate.gov.

Non-Locomotor Skill—movement of the body around an axis or joint (e.g., bend, stretch, twist, and reach).

Norm-Referenced Standards—making an evaluative decision based on how a performance compares with that of others, typically of the same gender, age, or class.

Offense—a means or methods of attacking or attempting to score.

Open Skill—motor skills that are performed in a changing environment.

Open Space—a space where there are no defenders/opponents.

Overloading—increasing the work done by muscles to above normal levels, but below the loads that would cause injury or distress, to improve fitness.

PACER—progressive aerobic cardiovascular endurance run. A test for cardiorespiratory fitness.

Pacing—an established rate of locomotion.

Pathways—refers to movement patterns of curved, zig-zag, or straight locomotion.

Personal Space—the area immediately surrounding a person.

Physical Activity (*PA*)—bodily activity that enhances or maintains physical fitness and overall health and wellness.

Physical Education—an education course that helps students develop the knowledge, fitness levels, motor skills, and personal/social skills to obtain the ultimate goal of a lifetime of physical activity and health.

Physical Fitness—the ability to carry out daily tasks with vigor and alertness, without undue fatigue, and with ample energy to enjoy leisure-time pursuits and respond to emergencies.

Physical Literacy—a disposition acquired by individuals encompassing the motivation, confidence, physical competence, knowledge, and understanding that establishes purposeful physical pursuits as an integral part of a lifestyle.

Power—the ability to move body parts swiftly while at the same time applying the maximum force on muscles.

Proficiency—the ability of the individual to demonstrate the criteria of a given task has been met.

Progression—the process of increasing the intensity, duration, frequency, or amount of activity or exercise as the body adapts to a given activity pattern.

Protocol—a system of rules or directions that explain the correct conduct and the procedures to be followed in formal situations.

Range of Motion (*ROM*)—varying degrees of motion around a joint.

Reaction Time—the ability to react or respond quickly to what one hears, sees, or feels.

Recess—a temporary break from structured learning where children can choose to be physically active or engage in social interactions.

Recovery Time—time or rest between exercises.

Regularity—principle that states physical activity must be performed on a regular basis to be effective and that long periods of inactivity can lead to loss of the benefits achieved during the training period.

Repetition—the number of times that an exercise is performed during one set.

Respiratory System—relating to breathing. System in the body that takes in and distributes oxygen.

Rhythmic Skills—movement that aligns to a steady pulse or musical beat. Examples include creative movement to music, multicultural dance, and jump rope.

SMART Goals—criteria for setting useful objectives. SMART goals are:

1. specific;
2. measurable;
3. attainable/achievable;
4. realistic/relevant; and
5. timely/time bound/timeline.

Scoring Rubric—descriptive scoring schemes developed by educators to guide the analysis of student work (i.e. the products or processes of student efforts).

Self-Assessment—

1. the student assesses personal progress as opposed to being assessed by the teacher or by other students. Self-assessments include:
   a. rating scales for levels of performance;
   b. participation;
   c. recording performance scores (e.g., distance, accuracy); and
   d. summary report after a series of assessment tasks (e.g., dribbling, throwing for accuracy and distance, jump shooting, physical fitness profiles), and questionnaire of likes and dislikes in activities;
2. self-assessment is a part of logs, journals, and portfolios as students evaluate personal performance or progress toward goals.

Self-Space—the space that one's body or body parts can reach without traveling away from a starting location.

Set—usually 8-12 repetitions of a given exercise.

Situational Context Clues—awareness of surroundings. For example, awareness of being followed by someone.

Skill Themes—a way of teaching children how to participate effectively in various activities by focusing on the development of the necessary skills. Skill themes include locomotor skills, non-manipulative skills, and manipulative skills.

Skill-Related Fitness—those components of physical fitness that relate to an enhanced performance in sports: agility, balance, coordination, power, speed, and reaction time.

Skills Performance—demonstrating ability to do a specific task well; improves with practice.

Small-Sided Games—games consisting of 3-6 people per team. This allows more practice time and more physical movement for each student compared to the full version of the game. Examples include 2v2 basketball, 3v3 volleyball, and 6v6 lacrosse.

Spatial Awareness—the relation of objects in relation to one's own body.

Specificity—the training principle that states, improvement in personal fitness will occur in the particular muscles that are overloaded during physical activity or exercise. For example: working on a certain component of fitness, such as flexibility exercises, directly improves flexibility.

Speed—the ability to perform a movement or cover a distance in a short period of time.

Sportsmanship—fairness, conduct, and attitude befitting participants in sports, especially fair play, courtesy, respect for one's opponent, and graciousness in winning or losing.

Static Balance—state of equilibrium, without movement or the ability to retain one's center of mass above one's base of support in a stationary position.

Strategy—a careful plan or method for achieving a particular goal, usually over a period of time.

Stretch—

1. dynamic stretching—a form of stretching beneficial in sports using momentum from form, and the momentum from static-active stretching strength, in an effort to propel the muscle into an extended range of motion not exceeding one's static-passive stretching ability;
2. static stretch—a slow sustained stretch of a muscle for 10-30 seconds. This static stretch should be performed after warming up the body.

Strike—to come into contact with an object via hand or handled implement. To perform various striking skills. For example, to place ball away from opponent in a racket sport, to place an overhead volleyball serve, or to punt a football.

Student Project—students engage in building a scenario, determining goals, planning a program of participation to achieve outcomes, and implementing the plan to the completion of the goals. Student projects provide for a range of strategies and results including the following: the application of the processes of data collection, goal setting, planning, analysis, decision making, problem solving; development and application of skill, and knowledge to real-life situations to solve problems or create "new" interventions to reach personal goals and may include:

1. multiple objectives or outcomes;
2. combine multiple assessment options (e.g., logs, journals, and reports);
3. student autonomy in choosing procedures and reaching conclusions;
4. solo or multiple students;
5. multiple resources;
6. changes in status, behaviors or conditions;
7. authenticity;
8. performance products;
9. flexibility of time (complexity of task determines time); and/or
10. integration of multiple content areas, concepts and applications.

Summative Assessment—a final evaluation that typically come at the end of key stages, units or the year in the use of standardized tests or evaluation instruments, and provides a summary of student learning or attainment at a particular point in time. The tool is used to make judgments about student performance, and also provides quality assurance to courses.

Tactics—the art or skill of employing available means to accomplish an end.

Tagger—a person who safely and appropriately touches a person or object.

Tagging—traveling quickly toward a person or object for a safe touch.

Target Games—games in which players score by throwing or striking an object to a target.

Target Heart Rate (*THR*)—also known as training heart rate, THR is the range of heart rate desired during aerobic exercise to enable the heart and lungs to receive the most benefit from the workout. Calculation of THR is based primarily on age; however, physical condition, sex, and previous training also are used in the calculation. The THR can be calculated as percent intensity.

Target Heart Rate Zone—the range of above-normal activity that optimizes an increase in fitness usually between 60-80 percent of maximum heart rate.

Teamwork—a cooperative effort by the members of a group or team to achieve a common goal.

Training Principle—

1. overload;
2. specificity;
3. progression;
4. reversibility; and
5. diminishing return.

Trajectory—the path followed by an object moving through space.

Transition—an act or process of passing from one state, stage, or place to another.

Vigorous Activity—activity full of physical or mental strength or active force carried out forcefully and energetically.

Volley—a shot or kick made by hitting an object before the object touches the ground.

Warm-Up—a variety of low intensity activities designed to prepare the body for more vigorous activities.

Weight-Bearing Exercise—any activity done while on one's feet and legs, and that works the muscles and bones against gravity.

Weight Transfer—movement of body weight from one body part to another.

Wellness—an overall state of being in good health-physical, mental, emotional, spiritual, and social health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1103. Standard 2

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1105. Standard 3

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1107. Standard 4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1109. Standard 5

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1111. Standard 6

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1113. Standard 7

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

Chapter 15. Grade-Level Expectations

§1501. Kindergarten Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1503. Grade 1 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1505. Grade 2 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1507. Grade 3 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1509. Grade 4 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1511. Grade 5 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1513. Grade 6 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1515. Grade 7 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1517. Grade 8 Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

§1519. High School Grade-Level Expectations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1172 (June 2002), repealed LR 43:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, September 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 102—Louisiana Physical Education Content Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no impact to expenditures of local school districts and other local education agencies (LEA) as a result of the proposed revisions.

The proposed standards streamline existing physical education content standards to eliminate multiple levels of benchmarks while maintaining the current focus on motor skills, movement patterns, application of movement concepts, health-enhancing physical activity, responsible behavior, and enjoyment of physical activity for health.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summar There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintedent
1708#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:XI.Chapter 36)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §3601, Office of Juvenile Justice Schools; §3603, Student Information System; §3605, Specialized Accountability System; §3607, Monitoring and Intervention; §3609, Assessments and Counseling; and §3611, Transmission of Cumulative Records. Act 500 of the 2016 Regular Legislative Session requires BESE to convene a mutual accountability team tasked with recommending a specialized accountability program for schools operated by the Office of Juvenile Justice (OJJ) that is consistent with the accountability program mandated for all schools in Louisiana and contains appropriate considerations for schools operated by the OJJ. The proposed revisions relate to the mutual accountability team recommendations regarding a specialized accountability program for schools operated by OJJ.

Title 28
EDUCATION
Part XI. Accountability/Testing
Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 36. Specialized Accountability for Office of Juvenile Justice (OJJ) Schools
§3601. Office of Juvenile Justice Schools

A. For the purposes of this Chapter:

OJJ Schools—all schools and programs providing educational services to students in secure care facilities operated by, or contracted under, the authority of the state Department of Public Safety and Corrections, Youth Services, Office of Juvenile Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§3603. Student Information System

A. OJJ shall maintain educational records for all students and shall report them, as required, to the state Department of Education. At a minimum, the student information system selected by the OJJ district shall provide for collection and reporting of the following data elements:

1. enrollment records;
2. attendance records;
3. diploma pathway selection;
4. Jump Start credentials;
5. local transcripts;
6. student grades;
7. TABE score;
8. state assessment scores (LEAP, EOC, ACT, WorkKeys);
9. assessments identified in other recommendations;
10. discipline incidents specific to educational settings and with educational staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§3605. Specialized Accountability System

A. The schools operated by OJJ shall participate in the state's accountability system for all public alternative schools as specified in this Bulletin.

B. In addition to the state accountability system and state report card, the department will annually publish specialized school and district report cards for schools operated by OJJ beginning with the 2017-2018 school year.

C. Unless otherwise indicated in the measures listed in Subsection D of this Section, students must meet the full academic year definition to be included in calculations. Students meet the full academic year definition if they are enrolled on or before October 1 and remain enrolled in the school until the final state assessment or the end of the regular academic year.

D. The specialized school and district report cards for OJJ will include results from the following measures:

1. growth measures from TABE average scaled scores in reading and mathematics:

a. scores closest to student entry and the end of the regular academic year shall be used based on documented data submitted to the LDE;

2. percentage of students earning a high school diploma:

a. students who are enrolled in grade 12 on October 1 but exit prior to the end of the year with a diploma will be included;

b. student inclusion will not be based on graduation cohort membership;

3. percentage of students earning a high school equivalency diploma (HiSET):

a. students who are enrolled on October 1 but exit prior to the end of the year with a HiSET will be included;

b. student inclusion will not be based on graduation cohort membership;

4. percentage of students in grades 11 and 12 who earn a Jump Start credential/IBC;

5. percentage of students in high school grades who earn a minimum of 2.5 Carnegie credits per semester;

6. percentage of students who participate in and meet program requirements of the Jobs for America's Graduates (JAG) program based on documented data submitted to the LDE;

7. subgroup performance for students with disabilities for all measures described in this Section.

E. At the end of each school year, the results of measures identified in this Section will be reviewed and specific annual targets for improvement will be developed by the LDE for implementation in the next school year. The LDE will review the specialized report card at the end of each year and adjust elements and targets as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§3607. Monitoring and Interventions

A. A special advisor shall be assigned to the OJJ by the LDE to assist schools with implementation of academic improvement efforts.

1. The special advisor shall have extensive experience working with schools in adjudicated settings.

2. The special advisor shall work directly with the OJJ director of education, as well as the school principals, and designated LDE staff.

B. Monitoring

1. The LDE shall conduct a program of regular, in-person monitoring of OJJ schools.

a. The LDE shall conduct at least one in-person monitoring visit for each OJJ school per year.

b. The LDE shall develop a rubric for use as a monitoring tool during annual monitoring visits.

C. OJJ School Improvement

1. During the 2017-2018 school year, the OJJ special advisor and OJJ shall jointly review each school's results and monitoring visits data to collaboratively develop a comprehensive school improvement plan to be implemented no later than the 2018-2019 school year.

2. Beginning in the 2018-2019 school year, the LDE shall assign a progress label to each OJJ school based on monitoring results and the results measured by the specialized report card. The progress label shall indicate which schools are considered "academically unacceptable" for the purposes of this Section.

3. The LDE shall require supports, interventions, and remedies for any OJJ school earning a progress label indicating the school is academically unacceptable. The intensiveness of the supports, interventions and remedies developed by the LDE shall escalate for every year that a school continues to earn a progress label indicating the school is academically unacceptable.

4. Such supports, interventions, and remedies may include, but shall not be limited to:

a. development and implementation of a revised school improvement plan approved by the special advisor;

b. reconstitution of the school subject to the approval of BESE. Reconstitution may include, but shall not be limited to required actions related to school leadership, personnel, structure, operations, budgeting, program offerings, professional development, and contracting with one or more external partners.

D. Pursuant to R.S. 17:10.9(C)(b)(3), the LDE shall submit an annual report to the Juvenile Justice Reform Act Implementation Commission and the House and Senate Committees on Education detailing any supports,

interventions, and remedies implemented for each OJJ school earning a progress label indicating the school is academically unacceptable. The report shall also be made available on the LDE website.

E. School Improvement Available to All Schools

1. In addition to the accountability provided above, OJJ schools shall participate in the statewide accountability system detailed in this Bulletin applicable to all other public alternative schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§3609. Assessments and Counseling

A. Students shall be assigned to appropriate educational programs and schools including high school diploma programs, industry-based certifications approved by BESE, and recognized high school diploma equivalent programs.

B. Student and parent interests may be considered when assigning youth to, and transferring youth among, educational programs and schools.

C. A student may not be removed from a program leading to a high school diploma without the consent of the student's parent or legal custodian as documented in the student's individual learning plan.

D. No later than August 1, 2017, the OJJ shall develop and implement a standard enrollment interview protocol for all students who are assigned to OJJ schools. The protocol shall be developed jointly with the special advisor and shall be approved by the LDE.

E. Interview protocols shall be used to develop individual learning plans for students, and shall be kept on file for each student. The interview protocols and individual learning plans shall be available to the special advisor during visits to the site and to the LDE monitoring team during annual monitoring site visits. The protocols and plans shall be designed to:

1. assure that students are assigned to appropriate educational programs and schools offering high school diplomas, BESE-approved programs leading to IBCs, and high school diploma equivalency programs;

2. collect student and parent interests to inform the assignment or transfer of students to programs and schools; and

3. verify consultation with and consent of parents prior to the removal of a student from a program leading to a high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§3611. Transmission of Cumulative Records

A. OJJ shall request cumulative records for students upon entry to an OJJ school.

B. OJJ shall send cumulative records to receiving local education agencies within two business days from when a request for records is received. In the case that an unforeseen circumstance creates a delay, OJJ will notify the receiving local education agency and provide a date by which the records will be transmitted. Such records shall include:

1. student records from previous schools in possession of OJJ;

2. individual learning plans developed by OJJ;

3. IAP form (if applicable);

4. report cards;

5. test results;

6. IEP forms/evaluations (if applicable);

7. individual graduation plan;

8. discipline records (as permitted by law);

9. work detail forms;

10. SBLC forms (if applicable);

11. transcripts/certificates/HiSET/diploma;

12. quarterly progress reports.

C. The records shall not include information that is prohibited by laws and regulations guaranteeing legal rights and protections for adjudicated students.

D. Requests for records and dates indicating transfer to cumulative folders to receiving schools shall be kept on file and available for review by the special advisor and monitoring teams.

E. The OJJ shall notify the LDE when a receiving local education agency does not enroll a student who transfers from an OJJ school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, September 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be impacts to expenditures of the Department of Education (LDE) and the Office of Juvenile Justice (OJJ) as a result of the proposed revisions.

Act 500 of 2016 required The Board of Elementary and Secondary Education (BESE) to convene a Mutual Accountability Team as an ad hoc subcommittee of the School and District Accountability Commission. The Mutual Accountability Team was tasked with recommending to BESE a specialized accountability program for schools operated by the Office of Juvenile Justice, which are reflected in these proposed revisions.

OJJ will be required to implement and deploy a comprehensive computerized student information system for use in collecting, sorting, and reporting the data defined in the rule. OJJ already owns a license to the software required to meet most of the compatibility requirements and is currently engaged in upgrades to the existing database. Potential costs to ensure compatibility with the existing case management system are indeterminable at this time, but are not expected to be significant.

LDE will be required to develop supports, interventions, and remedies to be implemented when OJJ is deemed to be academically unacceptable based on the specialized performance requirements. Costs for both LDE and OJJ will be determined by the type of supports and remedies developed, and the extent of the interventions required and are indeterminable at this time. However, to the extent such actions utilize existing protocols and resources such costs are likely to be marginal. The LDOE has contracted with an expert in education in juvenile justice settings. The amount of the contract is $49,999, the term of the contract is one year (July 1, 2017 - June 30, 2018), and the contract will be paid through Title I, 1003(a) funds.

Student growth is to be measured through an appropriate assessment instrument which shall be administered to all students at entry, prior to their release or other appropriate intervals. Student growth is currently measured using the same LEAP2025 assessments, as well as the ACT and EOC for high school students, which are administered in all public schools. Continued use of the current process has no additional cost implications. Schools administered by or contracted through OJJ will continue to give the TABE upon entry and every three months, as is their current practice, with no increased costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

OJJ schools may be eligible and awarded state and federal grants administered by the LDE under the provisions of school accountability laws and regulations to assist with the implementation of proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1708#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network
(LAC 28:CLXVII.313, 503, and 513)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 140—Louisiana Early Childhood Care and Education Network*: §313. Academic Approval for Type III Early Learning Centers, §503. Coordinated Observation Plan and Observation Requirements, and §513. Informational Metrics of Best Practices. Bulletin 140 is a set of regulations focused specifically on Early Childhood Community Networks, which ensure one organization within each local Community

Network coordinates across programs, set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session and establish processes to ensure fairness and equity for providers and families, and establish a unified quality and improvement system. The first year of implementation of policy contained in Bulletin 140 was a learning year and 2016-2017 was the second year of the unified quality rating and improvement system

The proposed revisions reflect small shifts based on engagement with early childhood programs and key stakeholders. First, the proposed revisions align group size descriptions in Bulletin 140 with those in Bulletin 137, *Louisiana Early Learning Center Licensing Regulations*. Second, the proposed revisions connect the Early Childhood Ancillary Certificate requirement for all lead teachers by 2019 in publicly-funded centers to the Academic Approval process. Third, the proposed revisions clarify that no observer will be excluded from the accountability system until they have been inaccurate more than half the time for two semesters, or at least two observations. Fourth, the proposed revisions provide a process for centers not open during the typical school day to receive academic approval.

Title 28

EDUCATION

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

Chapter 3. Early Childhood Care and Education Network

§313. Academic Approval for Type III Early Learning Centers

A. - B. …

C. Full Day or Non-Full Day Type III Early Learning Centers

1. For purposes of this Bulletin, a type III early learning center shall be either a full day center or a non-full day center.

a. A full day center provides care and instruction aligned with a typical school day that consists of at least 6 continuous hours per day or more than 20 hours per week.

b. A center that is not a full day center is a non-full day center.

D. Non-Full Day Type III Early Learning Centers

1. Initial Academic Approval for Non-Full Day Centers. In order to obtain the initial academic approval required to be licensed as a type III early learning center, a center that is applying for a new type III license and that does not provide full-day care must submit a signed copy of the current program partner assurances for non-full day type III early learning centers to the department, thereby agreeing to the following:

a. In the event the center begins to provide full day care, the center will provide written notice to the department, and sign new program partner assurances for full day early learning centers, within 10 business days of the change to full day care; and

b. By signing program partner assurances for full-day type III early learning centers, the center will be agreeing to comply with the provisions of this Bulletin, which include:

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

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

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

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

3. Renewal of Academic Approval. Academic approval shall be renewed annually for any non-full day type III early learning center if the center:

a. has current academic approval; and

b. has submitted a signed copy of the current annual program partner assurances for non-full day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

E. Initial Academic Approval for an Applicant for a New Full Day Type III Early Learning Center License for Fiscal Years 2016-2017, 2017-2018, and 2018-2019.

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

a. submit a signed copy of the current program partner assurances for Full Day Type III Early Learning Centers to the department, thereby agreeing to comply with the provisions of this bulletin, which include:

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

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

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

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

F. Initial Academic Approval for an Applicant for a New Full Day Type III Early Learning Center License for Fiscal Years 2019-2020 and Beyond

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

a. submit a signed copy of the current Program Partner Assurances for Full Day Type III Early Learning Centers to the department, thereby certifying that:

i. the center will comply with the provisions of this Bulletin, which include:

(a). membership in the corresponding community network, as provided in Chapter 3;

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

(c). participation in the coordinated enrollment process, as provided in Chapter 7.

ii. all lead teachers at the center have

(a). an Early Childhood Ancillary Certificate issued by the BESE; or

(b). are in the process of completing training that will lead to the Early Childhood Ancillary Certificate and will have obtained an Early Childhood Ancillary Certificate issued by BESE within 24 months of start day as a lead teacher.

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

G. Renewal of Academic Approval for Full Day Type III Early Learning Centers for the Fiscal Year 2017-2018

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

a. has current academic approval;

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

c. has submitted a signed copy of the current annual program partner assurances for Full Day type III Early Learning Centers to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:

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

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

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

2. Full Day type III early learning centers shall annually submit a signed copy of the annual program partner assurances for Full Day type III Early Learning Centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

H. Renewal of Academic Approval for Full Day Type III Early Learning Centers for Fiscal Year 2018-2019

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

a. has current academic approval;

b. is in compliance with the provisions of this bulletin;

c. has not had two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances for Full Day type III Early Learning Centers to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:

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

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

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

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

I. Renewal of Academic Approval for Full Day Type III Early Learning Centers for Fiscal Years 2019-2020 and Beyond

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

a. has current academic approval;

b. is in compliance with the provisions of this bulletin;

c. has not had two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual Program Partner Assurances for Full Day Early Learning Centers to the department, thereby certifying that:

i. the center will comply with the provisions of this bulletin, which include:

(a). membership in the corresponding community network, as provided in Chapter 3;

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

(c). participation in the coordinated enrollment process, as provided in Chapter 7; and

ii. all lead teachers at the center have:

(a). an Early Childhood Ancillary Certificate issued by BESE; or

(b). are in the process of completing training that will lead to the Early Childhood Ancillary Certificate and will have obtained an Early Childhood Ancillary Certificate issued by BESE within 24 months of start date as a lead teacher.

2. Full day type III early learning centers shall annually submit a signed copy of annual Program Partner Assurances for Full Day Type III Early Learning Centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

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

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

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

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

K. Renewal

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

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph L.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph L.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination or Refusal to Renew Academic Approval

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

a. violations of any provisions of this bulletin;

b. failure to timely comply with a corrective action plan provided by the department;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances; or

e. two unsatisfactory performance ratings within any consecutive three school years.

2. Notice

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

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

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

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

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

M. Appeal Procedure

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016), LR 43:

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. …

B. *CLASS*® Observation Requirements

1. - 5.b.…

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

B.5.c.i. - E. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:

§513. Informational Metrics of Best Practices

A. - A.1. …

a. to achieve gold-level ratios, publicly-funded sites use the following teacher/child ratios and meet group size~~s~~ requirements in BESE Bulletin 137 *Louisiana Early Learning Center Licensing Regulations*;

Age	Teacher/Child Ratio
Birth to 1 year	1:4
1 year to 2 years	1:4
2 years to 3 years	1:6
3 years to 4 years	1:8
4 years to 5 years	1:10

b. to achieve silver-level ratios, publicly-funded sites use the following teacher/child ratios and meet group size~~s~~ requirements in BESE Bulletin 137 Louisiana Early Learning Center Licensing Regulations;

Age	Teacher/Child Ratio
Birth to 1 year	1:4
1 year to 2 years	1:6
2 years to 3 years	1:8
3 years to 4 years	1:10
4 years to 5 years	1:12

c. to achieve bronze-level ratios, publicly-funded sites use at least the minimum teacher/child ratios and group size requirements in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*;

A.2. - E.2. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1875 (November 2016), LR 43:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, September 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 140—Louisiana Early Childhood Care and Education Network

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no impact to expenditures for state or local governmental units.

The proposed revisions align group size descriptions in Bulletin 140 with those in Bulletin 137, Louisiana Early Learning Center Licensing Regulations. Second, the proposed revisions connect the Early Childhood Ancillary Certificate requirement for all lead teachers by 2019 in publicly-funded centers to the Academic Approval process. Third, the proposed revisions clarify that no observer will be excluded from the accountability system until they have been inaccurate more than half the time for two semesters, or at least two observations. Fourth, the proposed revisions provide a process for centers not open during the typical school day to receive academic approval.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent proposed changes increase stakeholders' eligibility for School Readiness Tax Credits, there could be an indeterminable reduction in state revenue collections. However, any potential reductions are not likely to occur before Fiscal Year 2021.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed requirement that academic approval include certification for all lead teachers beginning in Fiscal Year 2019-2020 could impact both initial approval and renewal for Type III Centers. Increased requirements for personnel as well as the centers' previous performance ratings could raise the quality of child care provided in the centers, improve site ratings, and increase tax credits and CCAP bonus funding available to center owners and directors. However, those centers unable to meet the revised licensing requirements would be unable to enroll students and parents would be forced to seek alternative placements. To the extent alternative placements were unavailable, parents' ability to continue employment could be negatively impacted due to this reduction in child care capacity.

There is little cost to teachers to obtain the certificate at this time, as the LDE uses federal funds to provide scholarships to teacher candidates. To the extent funding is not available in the future, individuals may incur increased costs to achieve such certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The demand for certified teachers will increase as a result of the revised academic requirements for lead teachers. Centers may be required to increase salary levels to attract and retain qualified teachers who meet the new academic approval standards.

Changes to the maximum group size requirements could serve to increase the available child care slots at early learning centers, although current teacher/child ratios will continue to apply.

Beth Scioneaux
Deputy Superintendent
1708#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2318, 2319, 2335, 2345, 2353, 2355, and 3113)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; §2319, The Career Diploma; §2335, Computer/Technology Education; §2345, Foreign Languages; §2353, Mathematics; §2355, Music; and §3113, Work-Based Learning. The proposed revisions update the science and social studies requirements for the TOPS University Diploma; update the mathematics and social studies requirements for the Career Diploma; update the course offerings for computer/technology education, foreign languages, mathematics, and music; and update work-based learning requirements.

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

A. - C.3.c.iii.(f). …
(i). AP environmental science;
(ii). IB environmental systems;
(g). one of:
(i). physics I;
(ii). IB physics I;
(iii). AP physics I;
(h). one of:
(i). AP physics C: electricity and magnetism;
(ii). AP physics C: mechanics;
(iii). IB physics II;
(iv). AP physics II;
(i). one of:
(i). biology II;
(ii). AP biology;
(iii). IB biology I;
(iv). IB biology II;
d. social studies—four units:
i. - iii.(g). …
(h). AP Psychology
3.e. - 4.a.ii. …

iii. To complete a career area of concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the area of concentration and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics and Animation	1
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

C.5. - D.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:

§2319. The Career Diploma

A. - C.1.b.ii.(h). ...

(i). discrete mathematics;

(j). probability and statistics; or

(k). course(s) developed by the LEA and approved by BESE.

c. - h. …

2. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. - b.ii.(i). …

(j). probability and statistics; or

(k). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

(l). integrated mathematics I, II, and III may be substituted for algebra I, geometry, and algebra II and shall count as 3 math credits;

c. …

i. 1 unit of Biology;

ii. 1 unit from the following:

(a). chemistry I;

(b). physical science;

(c). earth science;

(d). agriscience II;

NOTE: Agriscience I is a prerequisite for Agriscience II and is an elective course.

(e). environmental science;

(f). any AP or IB science course;

d. social studies—2 units:

i. …

(a). U.S. history;

(b). AP U.S. history;

(c). IB history of the Americas I;

ii. 1 unit of the following:

(a). civics;

(b). government;

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

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

e. - h. …

3. To complete a career area of concentration for the career diploma, students shall meet the minimum requirements for graduation including four elective primary credits in the career major and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology applications courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics and Animation	1
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:

Subchapter B. Academic Programs of Study

§2335. Computer/Technology Education

A. Computer/technology course offerings shall be as follows.

Course Title(s)	Units
Computer Applications	1
Computer Architecture	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking I	1
Computer Systems and Networking II	1
Computer/Technology Literacy	1
Desktop Publishing	1
Digital Graphics and Animation	1
Multimedia Productions	1/2 or 1
Web Mastering	1/2
Independent Study in Technology Application	1

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 39:2220 (August 2013), LR 43:

§2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each
Mandarin Chinese I, II, III, IV	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each
Hindi I, II, III, IV	1 each
Portuguese I, II, III, IV	1 each
Vietnamese I, II, III, IV	1 each
IB Language ab initio: Arabic	1
IB Language B: Arabic	1
AP Chinese Language and Culture	1
AP French Language and Culture	1
AP German Language and Culture	1
AP Italian Language and Culture	1
AP Japanese Language and Culture	1
AP Latin	1
AP Spanish Language and Culture	1
IB Language ab initio: French	1
IB Language B: French	1
IB Language ab initio: Spanish	1
IB Language B: Spanish	1
IB Language ab initio: German	1
IB Language B: German	1
IB Language ab initio: Chinese	1
IB Language B: Chinese	1
IB Language ab initio: Italian	1
IB Language B: Italian	1
IB Language ab initio: Japanese	1
IB Language B: Japanese	1
IB Classical Language	1

B. …

1. provisional level certification from the American Sign Language Teachers Association (ASLTA); or

2. certificate of interpretation (CI) from the Registry of Interpreters of the Deaf (RID); or

3. certificate of transliteration (CT) from the RID; or

4. certified deaf interpreter certification (CDI) from the RID; or

5. level IV or V certificate of competence from the National Association of the Deaf (NAD); or

6. level IV or V official documentation of the videotaped version of the educational interpreter performance assessment (EIPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:

§2353. Mathematics

A. …

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
AP Computer Science A	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. The mathematics course offerings for the career diploma shall be as follows.

Course Title(s)	Units
Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Applied Algebra I	1
Geometry	1
Applied Geometry	1
Financial Mathematics (Literacy)	1
Technical Math	1
Medical Math	1
Applications in Statistics and Probability	1
Algebra II	1
Advanced Math—Pre-Calculus	1
Discrete Mathematics	1
Probability and Statistics	1
Math Essentials	1
Course(s) developed by the LEA and approved by BESE	1

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527 (December 2014), LR 42:1063 (July 2016), LR 43:

§2355. Music

A. - B. …

C. Approval by the local school board is required before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:2354 (November 2007), LR 37:2133 (July 2011), LR 39:2221 (August 2013), LR 40:999 (May 2014), LR 40:2528 (December 2014), LR 43:

Chapter 31. Career and Technical Education (CTE)

§3113. Work-Based Learning

A. - G.2. …

3. Each teacher-coordinator for work-based programs must maintain on file a class organization report.

G.4. - H.6. …

NOTE: Refer to career and technical education course offerings for prerequisites and requirements for specific work-based programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 33:280 (February 2007), LR 39:2228 (August 2013), LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, September 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no cost to the Department of Education or Local School Districts to implement the proposed rule change. Furthermore, since the revisions do not impact the TOPS eligibility criteria, there will be no impact to the TOPS Scholarship Program.

The proposed revisions update the science and social studies requirements for the TOPS University Diploma; update the mathematics and social studies requirements for the Career Diploma; update the course offerings for computer/technology education, foreign languages, mathematics, and music; and update work-based learning requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1708#037	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel
(LAC 28: CXXXI.344)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 746— Louisiana Standards for State Certification of School Personnel* §344. Early Childhood Ancillary Certificate. In January 2015, BESE approved the establishment of the Early Childhood Ancillary Certificate as the minimum credential for lead teachers working in Type III early learning centers. The Early Childhood Ancillary Certificate can be earned by demonstrating the completion of one of the following qualifying credentials: child Development Associate (CDA) approved by the Council for Professional Recognition and a high school diploma or equivalent; technical diploma/certificate in technical studies in an early childhood related field from an accredited technical or community college; career diploma approved by the Louisiana Pathways Career Development System; associate degree in an early childhood-related field from a regionally accredited college or university; or bachelor's degree or higher from a regionally accredited college or university. Current BESE policy provides that, beginning in January 2018, teachers pursuing the Early Childhood Ancillary Certificate through a CDA or technical diploma must complete their coursework from a BESE-approved provider. Proposed revisions to Bulletin 746 provide child care teachers additional time and flexibility to obtain Early Childhood Ancillary Certificate from the best available preparation provider while maintaining a near term expectation that child care teachers earn this professional credential.

Title 28
EDUCATION
Part CXXXI. Bulletin 746— Louisiana Standards for State Certification of School Personnel
Chapter 3. Teaching Authorizations and Certifications
Subchapter C. Ancillary Teaching Certificates
§344. Early Childhood Ancillary Certificate

A. The early childhood ancillary certificate authorizes an individual to teach in a publicly-funded early learning center serving children ages birth to five as defined in R.S 17:407.33, unless program requirements mandate a professional level certificate. After June 30, 2019, an individual shall have, at a minimum, an early childhood ancillary certificate to serve as a lead teacher in a publicly-funded early learning center.

B. Early Childhood Ancillary Certificates Issued

1. Eligibility Requirements. An early childhood ancillary certificate shall be issued to an applicant who submits evidence of one of the following to the LDE:

a. a bachelor's degree or higher from a regionally accredited college or university;

b. a current child development associate (CDA) credential, either infant/toddler or preschool, awarded by the Council for Professional Recognition and a high school diploma or equivalent.

i. After July 1, 2018, all 120 clock hours of coursework for the CDA must be earned from a BESE-approved Early Childhood Ancillary Certificate Program for initial CDA credentials.

(a) An individual who has completed 36 or more clock hours of coursework for the CDA by July 1, 2018 may complete the remaining coursework for the CDA from any CDA provider.

(b) An individual who has not completed 36 or more clock hours of coursework for the CDA by July 1, 2018 must earn all 120 hours of coursework for the CDA from a BESE-approved Early Childhood Ancillary Certificate Program.

(c) After July 1, 2018, individuals may submit a request to the Department to waive the requirement that all 120 hours of coursework for the CDA be obtained from a BESE-approved Early Childhood Ancillary Certificate Program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity.

ii. After July 1, 2018, applicants who obtained a CDA or completed coursework from a provider that is not BESE-approved while residing in another state shall submit additional documentation of program components for approval.

iii. Coursework counting towards the early childhood ancillary certificate shall include at least 10 training hours in each of the following subject areas:

(a). planning and implementing a safe and healthy learning environment;

(b). advancing children's physical and intellectual development;

(c). supporting children's social and emotional development;

(d). building productive relationships with families;

(e). managing an effective program operation;

(f). maintaining a commitment to professionalism;

(g). observing and recording children's behavior;

(h). understanding principles of child development and learning;

c. an associate degree in an early childhood related field from a regionally accredited college or university;

d. a technical diploma or certificate of technical studies in an early childhood related field from an accredited technical or community college.

i. After July 1, 2018, all coursework for technical diplomas and certificates of technical studies must be earned from a BESE-approved provider;

ii. After July 1, 2018, individuals may submit a request to the Department to waive the requirement that coursework be obtained from a BESE-approved Early Childhood Ancillary Certificate Program if the individual is able to demonstrate unavailability of enrollment options within a reasonable geographic proximity.

e. a career diploma that has been approved by the Louisiana Pathways Career Development System, and in which coursework began prior to July 1, 2018.

2. Renewal Guidelines

a. For individuals meeting eligibility requirements with a CDA, the early childhood ancillary certificate shall be valid for a three-year period. The ancillary certificate may be renewed by the LDE at the request of the applicant's employer with submission of either documentation of a renewed CDA credential, awarded by the Council for Professional Recognition, or documentation of:

i. either 4.5 continuing education units, a 3 credit-hour course, or 45 clock hours of approved training or professional development in early childhood care and education; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

b. For individuals meeting eligibility requirements with a bachelor's degree or higher, associate degree, technical diploma, certificate of technical studies, or career diploma, the early childhood ancillary certificate shall be valid for a three-year period. The certificate may be renewed by the LDE at the request of the applicant's employer with submission of documentation of:

i. either 4.5 continuing education units, a 3 credit-hour course, or 45 clock hours of training in early childhood care and education; and

ii. a minimum of 80 hours of work experience with young children or families with young children within the last three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17:6(A)(10), (11), and (15), R.S. 17:7(6), and R.S. 17:407.81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:917 (May 2015), LR 43:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, September 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to the state.

In January 2015, BESE approved the establishment of the Early Childhood Ancillary Certificate (certificate) as the minimum credential for lead teachers working in Type III early learning centers. The certificate can be earned by demonstrating the completion of one of the following qualifying credentials: child Development Associate (CDA) approved by the Council for Professional Recognition and a high school diploma or equivalent; technical diploma/certificate in technical studies in an early childhood related field from an accredited technical or community college; career diploma approved by the Louisiana Pathways Career Development System; associate degree in an early childhood-related field from a regionally accredited college or university; or bachelor's degree or higher from a regionally accredited college or university. Current BESE policy provides that, beginning in January 2018, teachers pursuing the Early Childhood Ancillary Certificate through a CDA or technical diploma must complete their coursework from a BESE-approved provider. Proposed revisions provide child care teachers additional time and flexibility to obtain a certificate from the best available preparation provider.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Individuals who have not yet earned the required certificate will benefit from the extended time frame to receive certification, the flexibility to complete ongoing coursework from non BESE approved programs, and the ability to request a waiver to allow them to obtain future coursework from non BESE approved programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1708#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigation Division

Document and Notification Submittal
(LAC 33:I.1203, 4701, 4703, 4705, 4711, and 5707; III.919, 1410, and 2132; V.1907, 2271, and 4999; VI.103, 403, 501, 502, 505, 507, 509, 515, 521, 607, 705, 711, 801, 803, 911, and 913; IX.7313; and XI.301, 303, 507, 701, 703, 715, 903, 905, 907, 1111, 1113, 1123, 1129, 1131, 1139, 1305, and 1309)(MM019)

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 various regulations, LAC 33:I, III, V, VI, IX and XI (MM019).

In response to Act 378 of the 2016 Regular Legislative Session, the Department of Environmental Quality has created the Office of Environmental Assessment. This office will absorb funtions and units from the Office of Environmental Compliance and the Office of Environmental Services. Due to the creation of the new office, this rulemaking revises references instructing where documents and notifications must be submitted. The basis and rationale for this Rule are to enact revisions created by Act 378 of the 2016 Regular Legislative Session. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 12. Requests for Review of Environmental Conditions

§1203. Procedure for Submittal of Request

A. - B.10. ...

C. An applicant shall submit the request for review, in accordance with the requirements of Subsection B of this Section, in triplicate, with the initial minimum fee in Subsection A of this Section, to the administrator of the Office of Environmental Assessment.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2011(D)(25), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007), amended LR 33:2079 (October

2007), LR 35:2178 (October 2009), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Subpart 3. Laboratory Accreditation

Chapter 47. Louisiana Environmental Laboratory Accreditation Program (LELAP) State Accreditation Requirements

§4701. Accreditation Process

A. The department accreditation process comprises four basic steps:

1. the submittal to the Office of Environmental Assessment of a written request from the laboratory in the form of an application provided by the department, along with payment of all applicable fees;

A.2. - B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), LR 43:933 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§4703. Application for Accreditation

A. ...

B. An application for environmental laboratory accreditation shall be made in writing to the Office of Environmental Assessment, using the current application provided by the department. This application shall include all requested information and be accompanied by the appropriate application fee. Supplemental information may be required.

C. - E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), LR 43:933 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§4705. Categories of Accreditation

A. At the time of application, each applicant shall clearly identify both the matrix (matrices) and the test categories for which accreditation is sought. A copy of each relevant test method documentation and the requisite equipment for the method shall be available at the laboratory. A current list of approved methods for each parameter/analyte shall be maintained by the Office of Environmental Assessment and shall be included as part of the application package. In cases where a method used by the laboratory is not listed, the laboratory shall submit documentation that verifies that the results obtained from the method in use are equal to or better than those results obtained from the approved method(s). The department shall review the data submitted by the laboratory and shall notify the laboratory in writing within 60 calendar days regarding whether the method is acceptable or unacceptable as an alternate method of analysis.

B. - B.11. ...

C. An accredited laboratory may request the addition of a matrix (matrices) and test category (categories) to its scope of accreditation at any time. Such a request shall be submitted on the current application to the Office of Environmental Assessment. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended by the Office of Environmental Assessment, LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), LR 43:933 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§4711. Proficiency Testing Participation

A. - E. ...

F. Each participating laboratory shall authorize the proficiency test provider to release the results of the proficiency evaluation (PE) test to the Office of Environmental Assessment at the same time that they are submitted to the laboratory. Every laboratory that receives test results that are "unacceptable" for a specific analyte must investigate and identify likely causes for these results, resolve any problems, and report such activity to the Office of Environmental Assessment, along with the submittal of corrective action proficiency sample test results. The laboratory shall report only the analytes for which corrective action was required.

G. - J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:921 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 57. Maintenance of Accreditation

§5707. Changes in Laboratory Operation

A. Changes in laboratory name, ownership, location, personnel, facilities, methodology, or any factors significantly affecting the performance of analyses for which the laboratory was originally accredited shall be reported to the Office of Environmental Assessment within 30 days.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:933 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR

31:2435 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Part III. Air

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

§919. Emissions Inventory

A. - D. …

1. If a facility no longer meets any applicability criteria under Paragraph A.1 of this Section for one full calendar year, the owner or operator may request approval from the department in writing to discontinue submission of an emissions inventory. All such requests shall be submitted to the Office of Environmental Assessment.

D.1.a. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 32:241 (February 2006), LR 33:2084 (October 2007), LR 37:3222 (November 2011), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 14. Conformity

Subchapter A. Determining Conformity of General Federal Actions to State or Federal Implementation Plans

§1410. Criteria for Determining Conformity of General Federal Actions

A. - A.5.a. ...

i. the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the department to result in a level of emissions that, together with all other emissions in the nonattainment or maintenance area, would not exceed the emissions budgets specified in the applicable SIP. As a matter of policy, should the department make such determination or commitment, the federal agency must provide to the Office of Environmental Assessment information on all known projects or other actions that may affect air quality or emissions in any area to which this rule is applicable, regardless of whether such project or action is determined to be subject to this rule under LAC 33:III.1405. The department may charge the federal agency requesting such determination a reasonable fee based on the number of man-hours required to perform and document the determination; or

A.5.a.ii. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1274 (November 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2751 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 21. Control of Emission of Organic Compounds

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. - B.5. ...

6. The regulated facility shall submit the following application information to the Office of Environmental Assessment prior to installation of the stage II vapor recovery system:

6.a. - 8….

9. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the Office of Environmental Assessment within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

C. - D. ...

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Assessment at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. - 2….

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental Assessment the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:1890 (September 2008), LR 34:2397 (November 2008), LR 37:1147 (April 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 19. Tanks
§1907. Containment and Detection of Releases

A. - G.4.c. ...

H. The following procedures must be followed in order to request a variance from secondary containment.

1. The Office of Environmental Assessment must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in Subsection G of this Section according to the following schedule:

H.1.a. - K.2.e. ...

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 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:995 (June 2008), LR 34:1896 (September 2008), LR 36:1235 (June 2010), repromulgated LR 36:1536 (July 2010), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), amended by the Office of the Secretary, Legal Division, LR 43:1142 (June 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 22. Prohibitions on Land Disposal
Subchapter B. Hazardous Waste Injection Restrictions
§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

A. - U.5. ...

V. Corrective Action for Wells in the Area of Review

1. The petitioner shall submit a plan to the Office of Environmental Assessment outlining the protocol used to:

V.1.a. - Z. ...

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 22:22 (January 1996), amended LR 23:299 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2479 (November 2000), LR 30:1674 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2460 (October 2005), LR 33:2110 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 49. Lists of Hazardous Wastes

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

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

Appendix A. - Appendix E. ...

A. - B.1.a. ...

b. All data obtained to fulfill the required testing must be submitted to the Office of Environmental Assessment within 60 days after each sampling event.

1.c. - 3.b. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008), LR 34:1021 (June 2008), LR 34:1613 (August 2008), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), LR 40:1692 (September 2014), LR 42:2179 (December 2016), LR 43:1149 (June 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation
Chapter 1. General Provisions and Definitions
§103. Regulatory Overview

A. - A.1. ...

B. Site Discovery and Evaluation

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or uncontrolled sites where hazardous substances could have been disposed of or discharged. Owners, lessees, and other persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the Office of Environmental Assessment within the specified time. The department may also discover sites through its own investigations, referrals from other agencies, or other means.

B.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999), amended LR 26:2510 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2136 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 4. PRP Search, Notification, and Demand for Remediation
§403. Notification to Provide Information

A. The Office of Environmental Assessment shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 5. Site Remediation

§501. Remedial Actions

A. ...

B. The Office of Environmental Assessment shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

B.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§502. Role of PRPs in Remedial Actions

A. The Office of Environmental Assessment may, at its sole discretion, direct PRPs to perform any site investigation, remedial investigation, corrective action study, and/or remedial action in accordance with the following:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), amended LR 26:2511 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§505. Removal Action

A. - A.3. ...

4. If the removal action results in achievement of the RECAP standards established by the department, the Office of Environmental Assessment may determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

5. ...

B. A removal action work plan shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§507. Remedial Investigation

A. - B. ...

C. To complete a RI the Office of Environmental Assessment, or PRPs as directed by the department, shall provide the following.

1. - 3. ...

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

C.4.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2137 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§509. Corrective Action Study

A. - C.5. ...

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the results of all required CAS activities shall be prepared by the Office of Environmental Assessment, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2188 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§515. Revisions to the Final Remedy

A. - B. ...

1. notify the Office of Environmental Assessment that a modification is necessary;

2. - 3. ...

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the Office of Environmental Assessment shall:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§521. Post-Remedial Management

A. - A.2. ...

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the Office of Environmental Assessment for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

1. - 8. ...

C. Monitoring. If required by the department, a monitoring plan shall be developed by the Office of Environmental Assessment, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for review and approval. The department shall provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:

C.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), amended LR 26:2512 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2758 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 6. Cost Recovery

§607. Determination of Remedial Costs; Demand to PRPs

A. Timing. The Office of Environmental Assessment may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 7. Settlement and Negotiations

§705. Negotiations

A. - B.4. ...

C. Negotiations after Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the Office of Environmental Assessment for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare, or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2138 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§711. Mixed Funding

A. - B. ...

C. Eligibility and Mixed Funding Criteria. The Office of Environmental Assessment shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are when the funding will achieve both:

C.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 8. Public Information and Participation

§801. Public Information

A. - B. ...

1. Information Repositories. The Office of Environmental Assessment may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§803. Public Participation

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the Office of Environmental Assessment, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

1. - 1.b.…

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to the Office of Environmental Assessment.

a. ...

b. Prior to any public comment period, the Office of Environmental Assessment, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), repromulgated LR 39:85 (January 2013), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 9. Voluntary Remediation

§911. Application Process

A. Voluntary Remedial Investigation Applications. Prior to performing a remedial investigation and submission of the application in Subsection B of this Section, the applicant may submit a voluntary remedial investigation application for review and approval by the administrative authority, which consists of the following:

1. a voluntary remedial investigation application Form VCP001, available from the Office of Environmental Assessment and on the department's website, with required attachments, accompanied by the remedial investigation work plan review fee; and

2. - 2.f. ...

B. Voluntary Remediation Applications. Prior to implementation of a voluntary remedial action at a site, applicants must submit a voluntary remediation application to the Office of Environmental Assessment for review and final approval. The application shall consist of the following:

1. a voluntary remediation application Form VCP002, available from the Office of Environmental Assessment and on the department's website, with required attachments, accompanied by the remedial action plan review fee;

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

2. After the application is accepted for public review and before the beginning of the public comment period provided in Subsections D and F of this Section, the applicant shall provide the number of copies of the accepted application specified by the administrative authority to the Office of Environmental Assessment.

3. ...

D. Public Notice. Upon acceptance of the voluntary remediation application, as set forth in Subsection C of this Section, the applicant must place a public notice of the proposed voluntary remedial action plan in the local newspaper of general circulation in the parish where the voluntary remediation site is located. The public notice shall be a single classified advertisement at least 4 inches by 6 inches in size in the legal or public notices section. The applicant must provide proof of publication of the notice to the Office of Environmental Assessment prior to final approval of the plan. The public notice shall:

1. - 2. ...

3. indicate that comments shall be submitted to the Office of Environmental Assessment (including the contact person, mailing address, and physical address), as well as indicate the deadline for submission of comments;

4. - 5. ...

E. Direct Notice to Landowners. Within five days of the public notice in Subsection D of this Section, the applicant must send a direct written notice of the voluntary remedial action plan to persons owning immovable property contiguous to the voluntary remediation site. This notice shall be sent to persons listed as owners of the property on the rolls of the parish tax assessor as of the date on which the voluntary remediation application is submitted. The notice must be sent by certified mail and contain the same information that is provided in the public notice. Return receipts or other evidence of the receipt or attempted delivery of the direct notice must be provided to the Office of Environmental Assessment prior to final approval of the plan.

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment for a period of 30 days after the date of the public notice and shall be fully considered by the administrative authority prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Paragraph D.1 of this Section. Also, the comment period provided in the public

notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

F.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:2139 (October 2007), LR 34:1901 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2759 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§913. Completion of Voluntary Remedial Actions

A. - D. ...

1. the applicant provides written notice to the Office of Environmental Assessment at least 15 days in advance of the termination;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:518 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:2140 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Part IX. Water Quality

Subpart 3. Louisiana Sewage Sludge and Biosolids Program

Chapter 73. Standards for the Use or Disposal of Sewage Sludge and Biosolids

Subchapter A. Program Requirements

§7313. Standard Conditions Applicable to All Sewage Sludge and Biosolids Use or Disposal Permits

A. - C.3.b. ...

c. The regulations and guidelines on the environmental laboratory accreditation program and a list of laboratories that have applied for accreditation are available on the department's website. Questions concerning the program may be directed to the Office of Environmental Assessment.

D. - D.8.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2406 (November 2007), amended LR 35:941 (May 2009), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. - A.2. ...

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the Office of Environmental Assessment of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system.

B. New UST Systems. Upon the effective date of these regulations, all owners of new *UST systems* (as defined in LAC 33:XI.103) must, at least 30 days before bringing such tanks into use, register them on an underground storage tank registration form (UST-REG-01). Registration forms shall be filed with the Office of Environmental Assessment. The following registration requirements apply to new UST systems.

1. - 2. ...

C. All UST system owners or operators shall comply with the following requirements.

1. Any person who sells a UST system shall so notify the Office of Environmental Assessment in writing within 30 days after the date of the transaction. A person selling a UST must also notify the person acquiring a regulated UST system of the owner's registration obligations under this Section.

2. Any person who acquires a UST system shall submit to the Office of Environmental Assessment an amended registration form within 30 days after the date of acquisition.

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), repromulgated LR 32:393 (March 2006), amended LR 32:1852 (October 2006), LR 33:2171 (October 2007), LR 34:2116 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2760 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§303. Standards for UST Systems

A. - C.1. ...

2. The department may grant an extension to these dates only in the event that the UST or UST system installation is delayed due to adverse weather conditions or other unforeseen, unavoidable circumstances. A written contract alone does not qualify as an unforeseen, unavoidable circumstance. In order to obtain an extension, the UST owner must submit a written request to the Office of Environmental Assessment, describing the circumstances that have caused the installation delay.

D. - D.6.b.i.(e). ...

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over *installation critical-junctures* (as defined in LAC 33:XI.1303) of a UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph D.6.a of this Section, all

owners and operators must provide a certification of compliance on the UST Registration of technical requirements form (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Assessment.

c. Notification of Installation. The owner and operator must notify the Office of Environmental Assessment in writing at least 30 days before beginning installation of a UST system by:

i. ...

ii. notifying the appropriate regional office of the Office of Environmental Assessment by mail or fax seven days prior to commencing the installation and before commencing any *installation-critical juncture* (as defined in LAC 33:XI:1303);

D.6.c.iii. - E.6. ...

a. The owner and operator must notify the Office of Environmental Assessment in writing at least 30 days before beginning a UST system upgrade.

b. An amended registration form (UST-REG-02) must be submitted to the Office of Environmental Assessment within 30 days after the UST system is upgraded. The owner and operator must certify compliance with Subsection C of this Section on the amended registration form (UST-REG-02). Beginning January 20, 1992, the amended registration forms (UST-REG-01 and 02) shall include the name and department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve repair-critical junctures or installation-critical junctures (as defined in LAC 33:XI.1303) of a UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002), amended by the Office of Environmental Assessment, LR 31:1066 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:2171 (October 2007), LR 34:2116 (October 2008), LR 35:1493 (August 2009), amended by the Office of the Secretary, Legal Division, LR 38:2761 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 5. General Operating Requirements

§507. Repairs Allowed

A. ...

1. Except in emergencies, the owner and operator shall notify the Office of Environmental Assessment in advance of the necessity for conducting a repair to a UST system.

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), amended by the Office of Environmental Assessment, LR 31:1070 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:2119 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2761 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

§701. Methods of Release Detection

A. - A.8.a. ...

b. The release-detection method has been approved by the Office of Environmental Assessment on the basis of a demonstration by the owner and operator that the method can detect a release as effectively as any of the methods allowed in Paragraphs A.3-8 of this Section. In comparing methods, the Office of Environmental Assessment shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed on its use by the Office of Environmental Assessment.

B. - B.4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, LR 31:1072 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§703. Requirements for Use of Release Detection Methods

A. - C.2.e.ii. ...

iii. obtain approval from the Office of Environmental Assessment to use the alternate release detection method before the installation and operation of the new UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), amended by the Office of Environmental Assessment, LR 31:1073 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), LR 34:1400 (July 2008), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§715. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

A. - C.1.f. ...

2. Within 20 days after release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit a report to the Office of Environmental Assessment summarizing the initial abatement steps taken under Paragraph C.1 of this Section and any resulting information or data.

D. - D.1.e. ...

2. Within 60 days of release confirmation or another reasonable period of time determined by the department in writing, owners and operators must submit the information collected in compliance with Paragraph D.1 of this Section to the Office of Environmental Assessment in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the department.

E. Free Product Removal. At sites where investigations under Subparagraph C.1.f of this Section indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Office of Environmental Assessment, while continuing, as necessary, any actions initiated under Subsections B-D of this Section, or preparing for actions required under Subsections F-G of this Section. To meet the requirements of this Subsection, owners and operators must take the following actions.

1. - 3. ...

4. Unless directed to do otherwise by the department, prepare and submit to the Office of Environmental Assessment, within 45 days after confirming a release, a free product removal report that provides at least the following information:

E.4.a. - G.4. ...

a. notify the Office of Environmental Assessment of their intention to begin cleanup;

G.4.b. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of the Secretary, LR 24:2253 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2172 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 9. Out-of-Service UST Systems and Closure

§903. Temporary Closure

A. - B.2. ...

3. submit a completed copy of the registration form UST-REG-01 to the Office of Environmental Assessment, indicating the dates the UST system was temporarily closed.

C. ...

D. When a UST system is temporarily closed for more than 24 months, owners and operators shall complete a site assessment in accordance with LAC 33:XI.907. The results of the assessment and documentation of compliance with the temporary closure requirements in Subsection A of this Section must be submitted in duplicate to the Office of Environmental Assessment within 60 days following the end of the 24-month temporary closure period.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2520 (October 2005), LR 33:2173 (October 2007), LR 34:2120 (October 2008), amended by the Office of the Secretary, Legal Division, LR 38:2762 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§905. Permanent Closure and Changes-in-Service

A. At least 30 days before beginning either permanent closure or a change-in-service under Subsections B, C, and D of this Section, owners and operators must notify the Office of Environmental Assessment of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action.

1. - 1.a....

b. notifying the appropriate regional office of the Office of Environmental Assessment by mail or fax at least seven days prior to implementing the removal or change.

A.2. - D....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), repromulgated LR 39:85 (January 2013), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§907. Assessing the Site at Closure or Change-in-Service

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the Office of Environmental Assessment within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), amended by the Office of Environmental Assessment, LR 31:1074 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

Chapter 11. Financial Responsibility

§1111. Financial Test of Self-Insurance

A. - C.5.b. ...

D. To demonstrate that it meets the financial test under Subsection B or C of this Section, the chief financial officer of the owner or operator, or guarantor, must sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. To prepare this letter, the owner or operator must use the form required by the department. This form may be obtained from the Office of Environmental Assessment.

* * *

E. - F. …

G. If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the administrative authority that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Office of Environmental Assessment of such failure within 10 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2560 (November 2000), LR 27:2232 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2173 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§1113. Guarantee

A. - A.2. ...

B. Within 120 days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of LAC 33:XI.1111 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in LAC 33:XI.1111.D and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator and to the Office of Environmental Assessment. If the Office of Environmental Assessment notifies the guarantor that he no longer meets the requirements of the financial test of LAC 33:XI.1111.B or C and D, the guarantor must notify the owner or operator within 10 days of receiving such notification from the Office of Environmental Assessment. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in LAC 33:XI.1139.C.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2763 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§1123. Trust Fund

A. - C. ...

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Office of Environmental Assessment for release of the excess.

E. If other financial assurance as specified in this Chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Office of Environmental Assessment for release of the excess.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§1129. Cancellation or Nonrenewal by a Provider of Financial Assurance

A. - A.2. ...

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in LAC 33:XI.1131, the owner or operator must obtain alternate coverage as specified in this Section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the Office of Environmental Assessment of such failure and submit:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2561 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§1131. Reporting by Owner or Operator

A. An owner or operator must submit to the Office of Environmental Assessment the appropriate forms listed in

LAC 33:XI.1133.B documenting current evidence of financial responsibility as follows.

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2521 (October 2005), LR 33:2174 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

A. Within 10 days after commencement of a voluntary or involuntary proceeding under title 11 (bankruptcy), *U.S. Code*, naming an owner or operator as debtor, the owner or operator must notify the Office of Environmental Assessment by certified mail of such commencement and submit the appropriate forms listed in LAC 33:XI.1133.B documenting current financial responsibility.

B. ...

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Environmental Assessment.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2174 (October 2007), LR 34:1902 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - B. ...

1. To qualify for an examination, a person need not be a resident of Louisiana. A person must provide, to the Office of Environmental Assessment, payment of the examination fee and meet the following requirements to be eligible for a UST certification examination.

B.1.a. - E. ...

F. Expiration and Renewal of Certificates

1. All UST certificates and certificate renewals shall expire December 31 of every second year. Applications for certificate renewal and payment of the renewal fee should be submitted to the Office of Environmental Assessment by November 1 of each year they expire. A person whose certificate has expired prior to his or her submission of evidence of compliance with Paragraph F.2 of this Section shall be considered a new applicant for certification.

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

H. Changes in Employment. It is incumbent upon a certified person to provide written notification to the Office of Environmental Assessment within 20 days after his or her knowledge of a change in employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), LR 43:951 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§1309. Approval of Continuing Training Courses

A. No course in continuing education submitted to the Office of Environmental Assessment will be considered for approval unless the course:

1. - 2. ...

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Assessment in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time, and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2765 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation 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 MM019. Such comments must be received no later than October 4, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigation 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 MM019. 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 September 27, 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: Document and Notification Submital

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no significant implementation costs or savings to state or local governments.

In response to Act 378 of the 2016 Regular Legislative Session, the Department of Environmental Quality has created the Office of Environmental Assessment. This office will absorb functions and units from the Office of Environmental Compliance and the Office of Environmental Services. Funding and authorized positions have been re-allocated as appropriate. Due to the creation of the new office, this rulemaking revises references instructing where documents and notifications must be submitted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no significant effects on revenue collections of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no significant costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant effect on competition and employment.

Herman Robinson	Evan Brasseaux
General Counsel	Staff Director
1708#027	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigation Division

Incorporation by Reference—Water Quality (LAC 33:IX.4901 and 4903)(WQ096ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.4901 and 4903 (Log #WQ096ft).

This Rule is identical to federal regulations found in title 40, volume 23, part 136; volume 29, parts 401 and 405-424; volume 30, parts 425-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule changes the reference dates to 40 CFR part 136 and 40 CFR parts 401 and 405-471. This updates the regulation to reflect the July 1, 2016 EPA publication. LAC 33:IX.Chapter 49 incorporates the following portions of the federal regulations into the Louisiana Water Quality regulations:

1. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2016, in its entirety;

2. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2016.

This action will incorporate the recently updated federal regulations into Louisiana's Water Quality regulations, increasing the enforceability of LPDES permits that include EPA-approved analytical methods and effluent limitations guidelines. The published edition of the 40 CFR is regularly updated on July 1 of every calendar year; therefore, this Rule will incorporate the date of July 1, 2016. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

A. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2016, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2135 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR chapter I, subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2016 are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2136 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation 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 WQ096ft. Such comments must be received no later than September 27, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations 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. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ096ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on September 27, 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.

This proposed regulation is 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

1708#025

NOTICE OF INTENT

Office of the Governor
Board of Architectural Examiners

Architecture Education and Research Fund
(LAC 46:I.Chapter 22)

Notice is hereby given in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), that the Board of Architectural Examiners proposes to adopt LAC 46:I.Chapter 22 pertaining to the Louisiana Architecture Education and Research Fund. During the 2016 Legislative Session, the legislature enacted Act 251 of 2016 (now R.S. 37:144(G)). This Act authorized the board to establish the Louisiana Architecture Education and Research Fund and to allocate up to 10 percent of all license renewal and delinquent fees each fiscal year to such fund. The proposed Rule sets forth the procedures for the establishment, operation, and regulation of the fund.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 22. Louisiana Architecture Education and Research Fund

§2201. Proposals

A. A proposal for an award from the Louisiana Architecture Education and Research Fund must include a plan for assessing the success of the program or project and demonstrate an outcome containing specific, measurable changes in knowledge, understanding, skill levels, or approaches related to the purpose of R.S. 37:144(G).

B. Emphasis of the proposed program or project should be placed on issues central to the architect's responsibility for the public health, safety, and welfare, and issues central to practice.

C. Proposals may include activities that are studio or design-based that result in a building project, design project, or built project.

D. Proposals may include activities such as classroom, laboratory, or seminar-based courses.

E. Proposals must be offered as part of a NAAB-accredited B.Arch or M.Arch professional degree program or as part of a pre-professional degree program with direct entry into a NAAB-accredited M.Arch degree program.

F. Two or more NAAB-accredited institutions may collaborate on a proposal for activities, programs, or projects that the architecture programs of each institution will work together jointly in fulfillment of the objectives of the award.

G. There are no restrictions on the type of proposal, so long as it meets the requirements presented in these guidelines and is in keeping with R.S. 37:144(G).

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

§2203. Eligibility

A. Proposals will only be accepted from an architecture academic division (school, department, etc.) located in Louisiana that has a program accredited by the National Architectural Accrediting Board (NAAB).

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

§2205. Budgets

A. The proposal shall contain a well-considered budget that sets forth specific, detailed, and realistic estimates of expected expenses and a timeline for implementation of the program or project.

B. Any substantive change from the budget originally proposed will require approval from board.

C. If other sources of funding have already been obtained and will be a part of the project budget, a description of the amounts, sources, and payment schedules shall be included in the proposal budget.

D. The proposal budget shall describe in detail the proposed use of all funds requested.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

§2207. Proposal Submissions

A. Proposals must be submitted to the board no later than April 1 preceding the fiscal year for which an award is sought.

B. Part 1 of the proposal shall include an architecture program information submission form and letters of commitment, as follows:

1. information submission form (form available from the board website); and
2. letters of commitment.

C. Part 2 of the proposal shall include an abstract, narrative, and budget as follows.

1. The proposal abstract shall contain a concise summary or abstract of the project.
2. The proposal narrative shall contain the following:
   a. description of specific, realistic outcomes;
   b. explanation of how specific aspects of the proposal will respond to issues of the Architectural Experience Program and/or the architect registration exam;
   c. description of how the project will address the academic environment in which it will be implemented; and
   d. description of the approach to achieve the project outcomes, including:
      i. explanation of how the project will raise student awareness for health, safety, and welfare;
      ii. explanation of how the approach will have immediate impact on student development;
      iii. explanation of how the approach will have on-going impact on curriculum development (if applicable);
      iv. description of level of student engagement, and
      v. plan for assessing the project.
3. The proposal budget shall contain the information described in §2205 supra.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

§2209. Review Criteria

A. The board’s assessment of proposals submitted will be based upon the proposal's effectiveness in integrating practice and education and upon:

1. outcomes—statements of specific, measurable, and realistic changes that will result from the board award;
2. integration—creation of innovative and effective concepts and methods to integrate non-faculty architect practitioners in the education of students in significant and meaningful ways;
3. impact—achievement of immediate and continuing impact on student education and development and the architecture curriculum and response to specific needs of the students, the school, the institution, and the profession;
4. effectiveness—effectiveness in raising student awareness of issues central to practice and the architect’s responsibility for health, safety, and welfare and responding to relevant issues identified through the NCARB

Architectural Experience Program (AXP) or the NCARB architect registration exam;

5. participation—proposed student participation, level of participation, and description of impact on project participants. Student reach should be as broad as possible; and

6. budget—effectiveness and appropriateness of the proposed budget in relation to project goals and the criteria set forth herein.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

§2211. Awards

A. Within its sole discretion, the board reserves the right not to make any awards.

B. Within its sole discretion, the board may not award the full funds available.

C. An award will be payable to the academic division (school, department, etc.) that houses the NAAB accredited program in which the project director(s) is employed.

D. The board may award the available funds equally to each eligible NAAB accredited institution or, depending on the proposals and funding available, a competitive process may be implemented.

E. Unless the award provides otherwise, awards will be payable in two installments:

1. 80 percent upon notice of award and acceptance of the board award conditions;

2. 20 percent upon the board's receipt and approval of the final report.

F. The board will consider an alternate payment schedule only if explained and justified in the initial proposal budget.

G. Funds awarded must be used specifically to support the integration of practice and education as described in the proposal and in conformance with this rule.

H. Funds awarded should be used in the academic year received; however, funds must be used within two academic years.

I. If funds awarded are not used within the academic year received, the architecture program will be unable to receive funds in the succeeding academic year.

J. A request for an extension of the project development, project implementation time period, or unused funds must be submitted to the board in writing no later than three months before the beginning of the requested extension.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

§2213. Use of Funds Awarded

A. Funds awarded may be used toward costs and expenses such as:

1. materials, resources, and fees associated with the National Council of Architectural Registration Board (NCARB) Architectural Experience Program (AXP) or the Architect Registration Exam (ARE);

2. new equipment and technology, including hardware, software, and interconnectivity with non-faculty architect practitioners, etc.;

3. expendable supplies such as building materials, model materials, and office supplies, printing and copying costs;

4. publications to encourage replication or adaption of the project, or development of similar projects;

5. travel and per diem for non-faculty architect practitioners, students, faculty, and consultants; or

6. honoraria for non-faculty architect practitioners and consultants.

B. Funds awarded may not be used toward costs or expenses such as:

1. institutional indirect and/or overhead costs;

2. salary for faculty, adjunct faculty, or visiting faculty to teach a proposed course;

3. expenses for existing courses; or

4. individual faculty enhancement activities.

C. The awards shall be named the "Teeny Simmons' Award" in honor of the late Mary "Teeny" Simmons, who faithfully served the board for over 41 years, including 39 years as its executive director.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

§2215. Report

A. The architecture academic division must complete a report documenting the degree to which the expected outcomes were achieved and the degree to which the project was implemented.

B. The report should detail how the award was spent, including any portion of the award which was not spent.

C. Any portion of the award not spent should be returned to the board.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 43:

Family Impact Statement

The proposed Rules are not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 40:972.

Poverty Impact Statement

The proposed Rules are not anticipated to have an impact on child, individual, or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Small Business Analysis

The proposed Rules are not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rules are not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments to Katherine E. Hillegas, Executive Director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 4:30 p.m., September 12, 2017.

Katherine E. Hillegas
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Architecture
Education and Research Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change establishing the Louisiana Architecture Education and Research Fund may have a financial impact to the board. For FY 18 the board has placed $25,000 into the fund in order to start the program, and expects to have similar amounts in subsequent years. However, the exact impact in future years cannot be determined because it will depend on multiple factors such as the amount of license renewal and delinquent fees received, the amount the board allocates annually to the fund, and the awards made by the board. The board does not anticipate needing additional staff to support this program.

Because up to 10% of collections from license renewals and delinquent fees previously used for operational expenses can now be placed into the Louisiana Architecture Education and Research Fund, the board may have to decrease spending in categories such as printing, supplies, and file maintenance and storage.

Act 251 of 2016 authorizes the board to allocate up to ten percent of all license renewal and delinquent fees each fiscal year to the Louisiana Architecture Education and Research Fund, and the proposed rules set forth establish the procedures and criteria which the board will use to make awards from the fund to qualifying academic institutions. If an institution is awarded, the funds may be applied towards: activities that are studio or designed-based that result in a building or design project, or activities such as classroom, laboratory, or seminar-based courses all while promoting student participation and raising awareness for issues related to architecture. The board has averaged collections of $510,156 from license renewals and delinquent fees over the past three years, and therefore would have the ability to contribute about $51,000 to the fund annually. However, the board does not plan to begin allocating the full 10% until the fund becomes more established and the board can gain a better perspective on the impact to operations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects upon revenue collections of state or local governmental units associated with the adoption of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will result in economic benefits to the academic institutions which receive the awards. There are four eligible institutions within the state: Louisiana State University, Louisiana Tech, Tulane, and the University of Louisiana at Lafayette. These institutions have programs with an architecture academic division accredited by the National Architectural Accrediting Board (NAAB). The benefits received will vary annually, depending upon the amount of the award received. Eligible institutions have the ability to submit proposals to the board, and the board has the authority to select zero, one, or multiple institutions to receive an award amount. Because the board has the authority to determine the percentage of revenues to be placed in the fund along with the ability to select multiple proposals the exact benefit to these institutions cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition or employment associated with the adoption of the proposed rule.

Katherine Hillegas	Evan Brasseaux
Executive Director	Staff Director
1708#030	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Pardons
and
Committee on Parole

Medical Parole/Medical Treatment Furlough
(LAC 22:XI.307)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Committee on Parole hereby gives notice of its intent to amend LAC 22:XI.307. This rulemaking implements Act 280 of the Regular Session of the Louisiana Legislature. Act 280 creates the medical treatment furlough program to be administered by the Department of Public Safety and Corrections, but provides that the authority to grant medical treatment furlough rests solely with the Committee on Parole. This proposed Rule is to establish that a medical treatment furlough can only be granted upon the recommendation of the Secretary of the Department of Public Safety and Corrections.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XI. Committee on Parole
Chapter 3. Parole—Eligibility and Types
§307. Medical Parole/ Medical Treatment Furlough

A. An offender determined by the Department of Public Safety and Corrections to be permanently disabled offender or terminally ill offender may be eligible for medical parole consideration.

1. Upon referral by the Department of Public Safety and Corrections, the committee may schedule the offender for a hearing for medical parole consideration.

2. Offenders who are serving a sentence for conviction of first degree murder, second degree murder, or who are sentenced to death are not eligible for medical parole consideration.

3. Medical parole consideration shall be in addition to any other parole for which an offender may be eligible. An offender eligible for both medical parole and traditional parole under the provisions of R.S. 15:574.4 shall be first considered for traditional parole.

B. *Permanently Disabled Offender*—any offender who is unable to engage in any substantial gainful activity by reason of any medically determinable physical impairment which

can be expected to result in death or which is or can be expected to be permanently irreversible.

C. *Terminally Ill Offender*—any offender who, because of an existing medical condition, is irreversibly terminally ill. For the purposes of this Section, "terminally ill" is defined as having a life expectancy of less than one year due to an underlying medical condition.

D. An offender determined by the Secretary of the DPS and C to be a limited-mobility offender may be considered for release to an off-site medical facility appropriate to meet the offender's medical and treatment needs.

1. *Limited-Mobility Offender*—for the purpose of a medical treatment furlough, any offender who is unable to perform activities of daily living without help or is bed bound, including but not limited to prolonged coma and medical ventilation

E. Public hearings for medical parole or medical treatment furlough consideration will be held at a location convenient to the committee and the offender and shall be conducted in accordance with board policies, 05-0511, Public Hearings/Videoconferencing and 05-511-A, Special Needs. The committee may request that additional medical information be provided or that further medical examinations be conducted.

F. The authority to grant medical parole or medical treatment furlough shall rest solely with the committee.

1. The committee shall determine the risk to public safety and shall granted medical parole or medical treatment furlough only after determining that the offender does not pose a high risk to public safety. In the assessment of risk, emphasis shall be given to the offender's medical condition and how this relates to his overall risk to society.

2. Generally, medical parole or medical treatment furlough consideration shall not be given to an offender when the offender's medical condition was present at the time of sentencing, unless the offender's overall condition has significantly deteriorated since that time.

3. The committee, if it grants medical parole or medical treatment furlough, may establish any additional conditions of medical parole as it may deem necessary to monitor the offender's physical condition and to assure that the offender is not a danger to himself and society.

G. The parole term of an offender released on medical parole or medical treatment furlough shall be for the remainder of the offender's sentence. Supervision of an offender released on medical parole shall consist of periodic medical evaluations at intervals to be determined by the committee at the time of release.

1. An offender released on medical parole or medical treatment furlough may have his parole revoked if his medical condition improves to such a degree that he is no longer eligible for medical parole.

a. If the offender's medical parole or medical treatment furlough is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be considered for parole under the provisions of R.S. 15:574.4.

2. Medical parole or medical treatment furlough may also be revoked for violation of any condition of parole as established by the committee.

H. The Division of Probation and Parole (P and P) shall monitor offenders that have been granted medical parole or medical treatment furlough until the offender's death or the expiration of their sentence. P and P shall submit a monthly report of all medical paroles to the board chair by the tenth of each month. The report must include the latest narrative report from the offender's P and P office, date and time of death if indicated, and any other information deemed to be appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2270 (August 2013), LR 41:43 (January 2015), LR 42:1283 (August 2016), LR 43:

Family Impact Statement

This proposed Rule 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 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 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Mary Fuentes, Executive Director, Board of Pardons and Committee on Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on September 10, 2017.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Parole /Medical Treatment Furlough

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change to LAC 22:XI.307 will not have a material fiscal impact on state or local governmental unit expenditures as it provides that the authority to grant medical treatment furlough rests solely with the Committee on Parole.

The proposed rule change LAC 22:XI.307 is to establish that a medical treatment furlough can only be granted upon the recommendation of the Secretary of the Department of Public Safety and Corrections.

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	Evan Brasseaux
Undersecretary	Staff Director
1708#055	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Cemetery Board

Cemetery Industry (LAC 46:XIII.103, 701, 707, 709, 1501, 1505, 1507, 1509, 1707, 1711, 1713, and 1909)

The Office of the Governor, Louisiana Cemetery Board proposes to amend LAC 46:XIII.103, 701, 707, 709, 1501, 1505, 1707, 1711, and 1909 and to adopt in their entirety LAC 46:XIII.1507, 1509, and 1713 as authorized by R.S. 8:67. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Louisiana Cemetery Board was created by Acts 1974, No. 417. The majority of the rules adopted pursuant to Acts 1974, No. 417, were promulgated in 1975 and 1982, with a complete recodification of the board's rules in 2013. The currently proposed rules are intended to update the existing rules to reflect legislative enactments and amendments and court rulings since the last major promulgation event in 2013. Finally, the proposed Rule incorporates existing policies into the rules of the Louisiana Cemetery Board and correct technical and grammatical errors in the original rules.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XIII. Cemetery Industry

Chapter 1. General Provisions

§103. Definitions

A. ...

* * *

Derivative and Hedge Transactions or *Investments*—an agreement, option or instrument, or any series or combination thereof, to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or instead to make a cash settlement, or that has a price, yield, level, performance, value, or cash flow which is based primarily on that of one or more underlying interest. The term includes, but is not limited to, options (calls and puts), not otherwise permitted to be held by a trust under the provisions of Title 8 or these rules, and any other substantially similar instruments. The term does not include a collateralized mortgage obligation, another asset-backed security, a principal-protected structured security, a floating rate security, an instrument that a trust is otherwise permitted to invest in or receive by a trust under the provisions of Title 8 and these rules.

* * *

Trust Account—for purposes of R.S. 8:412(B)(1) only and for no other purpose, an escrow account, established by an abandoned cemetery sales and management licensee. The funds contained therein, shall not be the property of the abandoned cemetery sales and management licensee and must be used solely in accordance with R.S. 8:412(B)(1) and for no other purposes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:519 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2739 (October 2013), LR 43:

Chapter 7. Certificate or License

§701. Applications

A. ...

B. If the applicant fails to submit the necessary documentation needed to complete an application, or the application remains incomplete and pending for a period in excess of 180 days without the applicant applying for and being granted an extension for good cause shown, the application shall be considered void, and any application fees paid in conjunction therewith shall be forfeited by the applicant and shall not be refunded; thereafter a new application for license must be submitted by the applicant, together with the payment of the applicable application fee without credit for any fees previously paid.

C. An application may be approved and certificate issued if the director or the director's designee determines that the applicant, its owners or managerial personnel meet the qualifications for license, has no unresolved or outstanding violations of Title 8 or these rules, and are not subject to any investigation for violations of Title 8 or these rules.

D. If the director or director's designee determines that further investigation is warranted, the director or director's designee may seek additional information from the applicant, from third parties, and may refer all matters to the assistant attorney general for further investigation and inquiry as warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:521 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2741 (October 2013), LR 43:

§707. Other Provisions Concerning Certificate or License
[Formerly §705]

A. - B. ...

C. When an application for certificate of authority has been filed, but has not been acted upon by the board, for a change in the ownership or control of an already-licensed cemetery or cemetery authority and the existing certificate of authority expires, the annual regulatory charge due as provided for by the Louisiana Cemetery Act shall nonetheless be paid.

1. Upon payment of the annual regulatory charge, the board or its designee may issue a temporary certificate of authority, not to exceed 180 days without the applicant

seeking and being granted an extension by the board or its designee for good cause shown, whose application for the change in the ownership or control of the cemetery or cemetery authority is pending. A temporary certificate of authority issued pursuant to this Subsection may be revoked by the board or its designee with or without cause.

D. If an applicant fails to submit the necessary documentation needed to complete an application for certificate of authority or license and the application remains pending for a period in excess of 180 days, without the applicant seeking and being granted an extension by the board or its designee for good cause shown, the application will be considered stale dated and the applicant must reapply including the resubmission of all time-sensitive information, documentation, and repayment of the prescribed application fees as provided for by the Louisiana Cemetery Act. Nothing contained herein to the contrary shall prohibit the board from pursuing regulatory action for an applicant's failure to comply with Title 8 or these rules.

E. Prior to the issuance of a certificate of authority to a newly established cemetery, the board may require the submission of minimum development plans, including, but not limited to, maps and plats and a development schedule for any roads and non-interment structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:522 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2741 (October 2013), LR 43:

§709. Refusal to Grant or Renew Certificate of Authority or License [Formerly §707]

A. If the director or director's designee refuses to grant or renew any certificate of authority to engage in the business of a cemetery, or the applicant has unresolved or outstanding violations of Title 8 or these rules and/or is subject to a pending investigation for violation of Title 8 or these rules, the director or director's designee shall give the applicant written notice of the decision and all of his or her reasons therefor. The applicant shall have 30 days after receipt of notice of the decision in which to initiate an adjudication proceeding before the board in accordance with §1101 et seq. If no such proceeding is initiated, the action shall be deemed a final decision of the board.

B. If the director or director's designee refuses to grant or renew any license to engage in the business of a cemetery sales organization or a cemetery management organization, or the applicant has unresolved or outstanding violations of Title 8 or these rules and/or is subject to a pending investigation for violation of Title 8 or these rules, the director or director's designee shall give the applicant written notice of the decision and all of his or her reasons therefor. The applicant shall have 30 days after receipt of notice of the decision in which to initiate an adjudication proceeding before the board in accordance with §1101 et seq. If no such proceeding is initiated, the action shall be deemed a final decision of the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:522 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2741 (October 2013), LR 43:

Chapter 15. Cemetery Care Fund

§1501. Payments to Perpetual Care Trust Fund [Formerly §1301]

A. - E. ...

F. In the event of a documented deposit overfunding error or when a contract for a cemetery space or interment right is cancelled, terminated, upgraded, or traded, the cemetery authority shall be entitled to a credit for the amount deposited and attributable to such space, provided that the cemetery authority can provide sufficient documentation, acceptable to the board, of the credit due.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 8:467 (September 1982), amended by the Office of the Governor, Cemetery Board, LR 39:2748 (October 2013), LR 43:

§1505. Annual Reports Required

A. ...

B. All trustees of perpetual or endowed care trust funds shall submit a report to the board, on the forms prescribed by the board, within 5 months after the close of the cemetery authority's tax reporting year, or within 60 days from resignation as trustee. The assets of the trust shall be reported on a cost basis.

1. All trustees of perpetual or endowed care trust funds shall amortize bond premiums and discounts and adjust the cost value accordingly over the life of the bond to ensure the cost of the bond will be equivalent to the value of the bond at acquisition.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2748 (October 2013), amended LR 43:

§1507. Administration and Investment of Perpetual Care Trust Funds

A. The trustee of a perpetual care trust fund shall administer the trust assets in a prudent manner that takes into consideration of the long-term safety, stability and growth of the trust. Engaging in speculative investments for any reason, including for the purpose of generating distributable income, is strictly prohibited. It shall be unlawful for a trustee or an investment advisor acting on behalf of a trustee of a perpetual care trust fund to:

1. engage in derivative and hedge transactions or investments including, but not limited to, the buying and selling of options (calls and puts) with trust assets;

2. place a margin loan, pledge or other lien against any of the securities or assets held in a trust;

3. churn or excessively trade trust assets for the purpose of generating commissions or fees for the trustee and/or investment advisor. A series of transactions, even if suitable when viewed in isolation, may be considered excessive and unsuitable for the trust when taken together in consideration of the long-term safety, stability and growth of the trust.

B. Mutual funds which are listed on a national exchange are permissible investments under the Louisiana Cemetery Act or these rules.

1. If a mutual fund is not listed on a national exchange but all of its underlying assets are listed on a national exchange and otherwise comply with the Louisiana Cemetery Act or these rules, the mutual fund may be considered compliant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 43:

§1509. Investment Advisors

A. Nothing in these rules shall be construed as prohibiting the trustee or cemetery authority from utilizing the services of an investment advisor. However, the use of an investment advisor does not relieve the trustee of its obligations and fiduciary responsibilities to administer the trust under the provisions of the Louisiana Cemetery Act or these rules including, but not limited to, directing and oversight of all trust assets. At all times the assets of the trust must be held by the trustee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 43:

Chapter 17. Merchandise Trust Funds

§1707. Annual Reports Required

A. ...

B. All trustees of merchandise trust funds shall submit a report to the board, on the forms prescribed by the board, within 90 days after the close of the cemetery's or other entity's tax reporting year, or within 60 days from resignation as trustee. The assets of the trust shall be reported on a cost basis.

1. All trustees of merchandise trust funds shall amortize bond premiums and discounts and adjust the cost value accordingly over the life of the bond to ensure the cost of the bond will be equivalent to the value of the bond at acquisition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2750 (October 2013), amended LR 43:

§1711. General Storage Requirements

A. Stored merchandise must be comprised of materials that are designed to withstand prolonged storage without adversely affecting the structural integrity or aesthetic characteristics of such merchandise.

1. Personal property delivery pursuant to R.S. 8:502.1(2) and (3) shall not apply to merchandise comprised of materials subject to deterioration including, but not limited to caskets and urns, which is not delivered within 120 days after entering into such contract, and shall not be stored by the cemetery.

B. All storage of merchandise pursuant to Title 8 shall be stored in accordance with the following requirements:

1. merchandise shall be stored in an organized and accessible manner in order to allow for expedient verification of compliance with Title 8 and these rules; and

2. merchandise shall be stored in an environment so as to ensure the preservation of the merchandise.

C. If any merchandise is determined to be damaged and unusable, the cemetery or other entity shall replace the merchandise with an item of like kind and quality. Any cemetery or other entity with such damaged or unusable merchandise shall not be in compliance with Title 8 or these rules until such time as the damaged or unusable items are replaced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2750 (October 2013), amended LR 43:

§1713. Administration and Investment of Merchandise Trust Funds

A. As provided for by. R.S. 8:509, merchandise trust funds shall be administered and invested in conformity with the perpetual care provisions of the Louisiana Cemetery Act and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 43:

Chapter 19. On-Site Inspections and Examinations

§1909. Examination Fees

A. The board shall assess the cemetery or other entity the costs associated with the expenses of the examination for each trust fund according to the following schedule:

1. if the examination takes two hours or less, there will be no fee charged;

2. if the examination takes more than two hours, but less than three hours, the fee will be $125 per cemetery, per examiner;

3. if the examination takes three hours or more, the fee will be $250 per cemetery, per examiner, per day, up to two days; and

4. if the examination takes more than two days, the cost shall be paid by the cemetery authority in an amount not to exceed a total of $500, unless irregularities are found, in which case, the cemetery authority shall pay the full cost of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Cemetery Board, LR 39:2751 (October 2013), amended LR 43:

Family Impact Statement

In compliance with Acts 1999, No. 1183, the impact of this proposed Rule on the family has been considered. The proposed Rule has no known impact on family functioning, formation, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Acts 2012, No. 854, the impact of this proposed Rule on poverty has been considered. The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

In compliance with Acts 2008, No. 820, the Regulatory Flexibility Act, the impact of this proposed Rule on small businesses has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses.

Provider Impact Statement

The proposed Rule has no known impact on providers as described in HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments to Lucy L. McCann, Louisiana Cemetery Board, 3445 North Causeway Boulevard, Suite 509, Metairie, LA 70002. She is responsible for responding to inquiries regarding the proposed Rule. The deadline for submitting written comments is 4:30 p.m., September 30, 2017.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Lucy L. McCann
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Cemetery Industry

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no anticipated implementation costs or savings to state or local governmental units.

The Louisiana Cemetery Board regulates the cemetery industry pursuant to the Louisiana Cemetery Act (R.S. 8:1, et seq). The purpose of the proposed rule change is to make minor changes that reflect and incorporate statutory and policy changes since the last amendments to the existing rules in 2013. New definitions are being added to the rule, as well as better defining separation of duties, and codifying the proposed rule to align with current practices and language set forth by law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no impact on state or local governmental revenues.

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.

Lucy L. McCann
Director
1708#010

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Crime Victims Reparations Board

Limits on Awards—Medical Expenses (LAC 22:XIII.503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations regarding the awarding of compensation to applicants.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XIII. Crime Victims Reparations Board
Chapter 5. Awards
§503. Limits on Awards

A. - G.2. …

3. The board will pay up to 70 percent of all outstanding charges after any third-party payment sources up to the statutory limits.

G.4. - O.3.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR:37:1605 (June 2011), LR 39:1042 (April 2013), LR 41:1668 (September 2015), LR 42:570 (April 2016), LR 42:743 (May 2016), LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. This proposed Rule will have no known impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it only clarifies the procedures for awarding reparations.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through post-secondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits; or

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirement or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than October 9, 2017 at 5 p.m. to Bob Wertz, Louisiana Commission on Law Enforcement, P.O. Box 3133, Baton Rouge, LA 70821.

Amanda Tonkavitch
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Limits on Awards—Medical Expenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative rule change is not anticipated to result in implementation costs or savings to state or local governmental units. The proposed change codifies existing practices of the Crime Victims Reparation Board (CVRB) with regard to reimbursing crime victims for verified medical expenses. The proposed rule change clarifies that reimbursement for verified medical expenses will be made to a victim for up to 70% of all outstanding charges after any third-party payment sources up to the statutory limits, rather than a guaranteed 70% of the amount owed, pursuant to authorization by the CVRB.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to effect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not anticipated to create economic costs or benefits to directly affected persons or non-governmental groups, as it codifies existing practices with regard to awarding benefits for treatment of personal injury from the Crime Victims Reparation Fund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of the proposed rule change.

Jim Craft	Evan Brasseaux
Executive Director	Staff Director
1708#033	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Real Estate Appraisers Board

Compensation of Fee Appraisers (LAC 46:LXVII.31101)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3397 et seq., and Executive Order JBE 17-16, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has initiated procedures to readopt Chapter 311 (Compensation of Fee Appraisers) to provide additional oversight.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 3. Appraisal Management Companies
Chapter 311. Compensation of Fee Appraisers
§31101. General Provisions; Customary and Reasonable Fees; Presumptions of Compliance

A. Licensees shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised and as prescribed by R.S. 37:3415.15(A). For the purposes of this Chapter, market area shall be identified by zip code, parish, or metropolitan area.

1. Evidence for such fees may be established by objective third-party information such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by appraisal management companies.

2. The board, at its discretion, may establish a customary and reasonable rate of compensation schedule for use by any licensees electing to do so.

3. Licensees electing to compensate fee appraisers on any basis other than an established fee schedule as described in Paragraphs 1 or 2 above shall, at a minimum, review the factors listed in §31101.B.1-6 on each assignment made, and make appropriate adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable.

B. A licensee shall maintain written documentation that describes or substantiates all methods, factors, variations, and differences used to determine the customary and reasonable fee for appraisal services conducted in the geographic market of the appraisal assignment. This documentation shall include, at a minimum, the following elements:

1. the type of property for each appraisal performed;

2. the scope of work for each appraisal performed;

3. the time in which the appraisal services are required to be performed;

4. fee appraiser qualifications;

5. fee appraiser experience and professional record; and

6. fee appraiser work quality.

C. Licensees shall maintain records of all methods, factors, variations, and differences used to determine the customary and reasonable rate of compensation paid for each appraisal assignment in the geographic market of the property being appraised, in accordance with Section §30501.C.

D. Except in the case of breach of contract or substandard performance of real estate appraisal activity, an appraisal management company shall make payment to an independent contractor appraiser for the completion of an appraisal or appraisal review assignment:

1. within 30 days after the appraiser provides the completed appraisal report to the appraisal management company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3073 (November 2013), amended LR 42:872 (June 2016), repromulgated 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 August 20, 2017 *Louisiana Register*: The proposed Rule readoption has no known impact on family, formation, stability, or autonomy.

Poverty Impact Statement

The proposed Rule readoption has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule readoption 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 September 8, 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 September 27, 2017 at 9 a.m. at the office of the Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Compensation of Fee Appraisers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with the proposed rule readoption.

The proposed rule readoption is for continued oversight only.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule readoption is for continued oversight only and will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule readoption is for continued oversight only and will have no estimated costs associated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Bruce Unangst
Executive Director
1708#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Nursing

Reinstatement of License (LAC 46:XLVII. 3415)

At its meeting held on April 20, 2017, the Louisiana State Board of Nursing approved the proposed rule change to add language to Chapter 34, §3415.A-C, under Title 46, Professional and Occupational Standards, Part XLVII. The current Section allows a nurse whose license has been suspended or surrendered to apply to the board to have their license reinstated. This proposed Rule adds that a nurse whose license has been revoked may also apply to have their license reinstated by requesting a hearing.

Title 46
PROFESSIONAL AND OCUPATION STANDARDS
Part XLVII. Practical Nurses and Registered Nurses
Subpart 2. Registered Nurses
Chapter 34. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§3415. Reinstatement of License

A. Application for reinstatement of a suspended, revoked, or surrendered license shall be in writing in the form prescribed by the board. Applications and supporting documentation shall be submitted to the board at least 21 days prior to the scheduled hearing or conference.

B. The application for reinstatement of a suspended or a revoked license does not require satisfaction of the requirements for initial licensure. However, the requirements of LAC 46:XLVII.3333 and 3335 shall be met.

C. Prior to reinstatement of a license previously suspended (except for nonpayment of fees) or revoked, a hearing or conference is held before the board or staff to afford the applicant with the opportunity to present evidence that the cause for the revocation or suspension no longer exists and to provide an opportunity for the board or staff to evaluate changes in the person or conditions. In certain situations, the license may be reinstated by consent order or settlement order. The burden of proof is on the applicant to prove that conditions that led to the suspension or revocation no longer exist and/or no longer affect applicant's ability to practice safely. If reinstatement is granted, a period of probation with stipulations may be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:921, R.S. 37:922 and R.S. 37:923.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 16:1060 (December 1990), LR 24:1293 (July 1998), LR 43:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. a family's earnings and budget;

5. the behavior and personal responsibility of the children; or

6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before September 10, 2017.

Dr. Karen C. Lyon, E.D
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Reinstatement of License

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fee associated with the proposed rule change, which is estimated to cost the Louisiana State Board of Nursing (LSBN) $250, there are no other anticipated costs or savings to the board or other state or local governmental units. The current rule allows a nurse whose license has been suspended or surrendered to apply to the Board to have their license reinstated. Proposed rule adds that a nurse whose license has been revoked may also apply to have their license reinstated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The total revenue generated as a result of this rule change is indeterminable, but expected to be minimal, and is dependent on the number of nurses that apply to have their license reinstated and the outcome of the reinstatement hearing. Historically, there have been less than 5 licenses revoked each year.

If a nurse whose license has been revoked applies to have their license reinstated, the LSBN will generate additional revenue collections as a result of this rule change. The application fee to apply for license reinstatement is $100. If a reinstatement is granted, the board will also generate additional revenue each year the nurse's license is active. The annual fee a nurse must pay to maintain an active license is $100 for an RN and an additional $100 for an advanced practice nurse.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may have an economic benefit to a nurse whose license has been revoked. Currently, these nurses are no longer able to practice as an RN. However, this rule change gives them an opportunity to have their license reinstated under certain circumstances as approved by the board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may have an impact on the employment opportunities of a nurse whose license has been revoked. If a reinstatement is granted, then the nurse may practice as an RN.

Dr. Karen C. Lyon, E.D.	Evan Brasseaux
Executive Director	Staff Director
1708#024	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Adult Brain Injury Facilities
Licensing Standards
(LAC 48:I.Chapter 87)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 87 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.31-40. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 245 of the 2005 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing the licensing of adult brain injury facilities. In compliance with Act 245, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing the licensing of adult brain injury facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 87. Adult Brain Injury Facilities Licensing Standards
Subchapter A. General Provisions
§8701. Introduction

A. These rules and regulations contain the minimum licensure standards for adult brain injury facilities, pursuant to R.S. 40:2120.31 – 40:2120.40. Brain injuries may result in mild, moderate or severe impairments in cognition, physical functioning and psychosocial behavior. Unique care is necessary to rehabilitate and provide for the needs of these individuals in order for them to achieve their fullest capacity. It is the intent of these minimum licensing standards to protect the health, safety, and well-being of the citizens of the state who suffer from brain injuries and are receiving care in an adult brain injury facility. Contained herein are the

core requirements for adult brain injury facilities as well as level specific requirements, depending upon the services provided in the following settings:

1. residential level of care;
2. community living level of care; and
3. outpatient level of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8703. Definitions

Abuse—the willful infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, unreasonable confinement and/or intimidation to such an extent that his/her health, self-determination or emotional well-being is endangered.

Acquired Brain Injury—an injury to the brain that has occurred after birth and is not hereditary, congenital, or degenerative. The injury commonly results in a change in neuronal activity, which affects the physical integrity, the metabolic activity or the functional ability of the cell. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustments. The term does not refer to brain injuries induced by birth trauma.

Activities of Daily Living (ADLs)—activities considered the basic, vital, daily activities for persons and are identified as bathing, grooming, dressing, dining, toileting and ambulation/transfer.

Adult—an individual 18 years of age or older.

Adult Brain Injury (ABI) Facility—any of the following:

1. *Residential Level of Care*—a facility publicly or privately owned, located at one or more geographic addresses, providing a rehabilitative treatment environment which serves four or more adults who suffer from brain injury and at least one of whom is not related to the operator. Services shall include personal assistance or supervision for a period of 24 hours continuously per day preparing them for community integration. Such services shall be provided by adult brain injury facilities licensed to provide residential level of care services.

2. *Community Living Level of Care*—a home or apartment publicly or privately owned, providing a rehabilitative treatment environment which serves one to six adults who suffer from brain injury and at least one of whom is not related to the operator. Services may include personal assistance or supervision for a period of up to 24 hours continuously per day in a home or apartment setting preparing them for community integration.

a. The apartment or home shall contain, at a minimum, a living/dining/bedroom area, kitchen/kitchenette, bathroom and storage space.

b. There shall be no more than three bedrooms in an apartment and no more than six beds per home.

c. Such treatment environment shall be provided by adult brain injury facilities licensed to provide community living level of care services.

3. *Outpatient Level of Care*—a facility publicly or privately owned providing an outpatient rehabilitative treatment environment which serves adults who suffer from brain injury, at least one of whom is not related to the operator, in an outpatient day treatment setting in order to advance the individual's independence for higher level of community or transition to a greater level of independence in community or vocational function. Such services shall be provided by adult brain injury facilities licensed to provide outpatient level of care services.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, providing hands-on assistance with the performance of the tasks, or supervision and prompting to allow the individual to self-perform such tasks.

Behavioral Services—services that identify maladaptive behaviors which interfere with the person's safe integration into the community and the formulation of an inclusive behavior management program to decrease identified maladaptive behaviors.

Brain Injury—an acquired or traumatic injury to the brain. Such term does not include brain dysfunction caused by congenital disorders, degenerative disorders or birth trauma but may include brain injuries caused by anoxia due to trauma.

Cessation of Business—the ABI facility is non-operational and/or has stopped offering or providing services to the community.

Client—an individual receiving care from an ABI facility who is medically stable and does not require an IV, a functioning feeding tube, or other artificial or mechanical supports for life sustaining processes.

Cognitive Rehabilitation—a systematic, functionally oriented service of therapeutic cognitive activities based on an assessment and an understanding of the behavior of a client. Services are directed to achieve functional improvement by either:

1. reinforcing, strengthening or re-establishing previously learned patterns of behavior; or
2. establishing new patterns of cognitive activity or mechanisms to compensate for impaired neurological systems.

Community Integration—the participation in the mainstream of community life and maintaining social relationships with family members, peers and others in the community who do not have brain injuries. Integration also means that clients have equal access to and full participation in community resources and activities available to the general public at the maximum amount of safety and independence as possible.

Department (LDH)—the Louisiana Department of Health, formerly known as Department of Health and Hospitals or DHH.

Direct Care Staff—an employee of the facility, either contracted or directly employed, who provides personal care services to the clients. Such services may include, but are not limited to, assistance with ADLs and IADLs.

Director—the person designated by the owner or governing body as responsible for carrying out the day-to-day management, administration, supervision and operation of the facility.

Employed—performance of a job or task for compensation, such as wages or a salary. An employed

person may be one who is contracted or one who is hired directly.

Functional Limitations—actual behaviors or mental or physical disabilities exhibited by adults with brain injuries or conditions presented by their environment, or both, that shall be modified or minimized in order for clients to fulfill their potential or maximize their functioning.

Head Injury—a traumatic or acquired brain injury.

Health Standards Section (HSS)—the agency or office within the Louisiana Department of Health with the responsibility for the inspection and licensure of adult brain injury facilities.

Impairment—any loss or abnormality of psychological, cognitive, physiological, or anatomical structure or functioning.

Instrumental Activities of Daily Living (IADLs)—activities considered to be instrumental, essential activities for persons, but are not usually considered as basic or vital activities of daily living, and may not be daily activities. Such activities include, but are not limited to:

1. socialization;
2. managing personal affairs;
3 financial management;
4 shopping;
5. housekeeping; and
6. appropriate transportation, correspondence, behavior and health management, etc.

Medication Management Program—a systematic, functionally, oriented program formulated in consultation with the client's primary provider and implemented by staff, either contracted or directly employed, and trained by a nursing director. The program shall be based upon an assessment and understanding of the behaviors of the client and recognition of the unique medical and pharmacological needs of the client. It shall also mean an incorporation of the most appropriate level of assistance necessary to advance towards independence.

Neglect—the failure to provide food, shelter, clothing, medical or other health services, appropriate security and supervision or other personal services necessary for a client's well-being.

Non-Operational—the ABI facility is not open and available for business operation as stated on the licensing application and business location signage.

Nursing Director—a person who meets the legal requirement of a registered nurse (RN) in the state of Louisiana.

Personal Care—services and supports including but not limited to:

1. bathing, hair care, skin care, shaving, nail care, oral hygiene, overall hygiene and activities of daily living;
2. interventions to assist with eating and bowel and bladder management;
3. positioning;
4. care of adaptive personal care devices; and
5. an appropriate level of supervision.

Primary Provider—a provider, board-certified in his/her specialty, who currently holds a valid license in Louisiana and is responsible for overseeing the decision making process for admission and continued stay of clients.

Rehabilitation—the process of providing those comprehensive services deemed appropriate to the needs of a client in a coordinated manner in a program designed to achieve functional objectives of improved health, welfare, maximum physical, cognitive, social, psychological and community functioning.

Rehabilitative Treatment Environment—a rehabilitation setting that provides for all of the following:

1. a provision of a range of choices, with personal preference, self-determination and dignity of risks receiving full respect and consideration;
2. a variety of social interactions that promote community integration;
3. an environment of peer support and mentorship;
4. professional team involvement;
5. a physical environment conducive to enhancing the functional abilities of the client;
6 necessary therapeutic services which may include social work, behavioral services, speech therapy, physical therapy, occupational therapy, vocational services and therapeutic recreational services;

NOTE: All therapeutic providers shall be licensed under state and, if applicable, national boards.

7. a medication management program;
8. cognitive rehabilitation activities; and
9. the identification of functional limitations.

Representative—a person who voluntarily, with the client's written authorization, may act upon the client's direction regarding matters concerning the health and welfare of the client, including having access to personal records contained in the client's file and receiving information and notices about the client's overall care and condition.

1. No member of the governing body, administration or staff, either contracted or directly employed, of an ABI facility or any member of their family may serve as the representative for a client unless they are related to the client by blood or marriage.

2. In the case of an individual that has been interdicted, the representative is the court-appointed curator or his/her designee.

Support—activities, materials, equipment, or other services designed and implemented to assist the client with a brain injury. Examples include, but are not limited to:

1. instruction;
2. training;
3. assistive technology; or
4. removal of architectural barriers.

Therapeutic Recreational Services—services that identify leisure activities and assistance in modifying and adapting identified leisure activities to allow safe participation by the client as a means to improve quality of life and aid in integration into the community.

Traumatic Brain Injury—an insult to the brain, not of a degenerative or congenital nature, caused by an external physical force that may produce a diminished or altered state of consciousness, which results in an impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functioning disability, or psychosocial maladjustment.

Vocational Services—services provided directly or through cooperating agencies to a client in accordance with

his individualized plan and designed to improve or enhance skills and behaviors necessary for successful placement in a volunteer or work setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8705. Licensure Requirements

A. Any entity or person(s) that operates an ABI facility shall have a license issued from the Department of Health (LDH). LDH is the only licensing authority for ABI facilities in the State of Louisiana. It shall be unlawful to establish, open, operate, manage, maintain or conduct services of an ABI facility without possessing a current, valid license issued by LDH. Each facility shall be separately licensed.

B. The department may issue a license to an ABI facility to provide any or all of the following services:

1. residential services (a license is required for each offsite location);
2. community services; and
3. outpatient services.

C. The department may issue multiple licenses to a single facility in accordance with the number of offsite locations operated by such facility.

D. An ABI facility license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the entity or person to which it is issued and only for the specific geographic address(es) of each facility owned and operated by the entity or person;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ABI facility;
5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the ABI facility to be considered operational and retain licensed status, the facility shall meet the following conditions:

1. The residential ABI facility shall continuously have at least one employee available by telephone or telecommunications for the ABI facility 24 hours per day, seven days per week.
2. There shall be staff member(s), either contracted or directly employed, on-site at all times when there are clients present sufficient to meet the needs of the clients.
3. The ABI facility shall have provided services to at least two clients in the preceding 12 months prior to licensure renewal.

F. The licensed ABI facility shall abide by and adhere to any state law, rules, policy, procedure, manual or memorandums pertaining to ABI facilities.

G. A separately licensed ABI facility shall not use a name which is substantially the same as the name of another ABI facility licensed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8707. Initial Licensure Application Process

A. An initial application for licensing as an ABI facility shall be obtained from the department. A completed initial license application packet for an ABI facility shall be submitted to, and approved by, LDH prior to an applicant providing adult brain injury services. An applicant shall submit a completed initial licensing packet to LDH, which shall include:

1. A completed ABI facility licensure application and the non-refundable licensing fee as established by statute.
2. The type of facility or facilities the applicant intends to operate (residential, community or outpatient).
3. A copy of the approval letter of the architectural facility plans from the entity/office designated by the department to review and approve healthcare facilities' architectural and licensing plans (residential).
4. A copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal (OSFM) (residential and outpatient only).
5. A copy of the health inspection report with approval of occupancy from the Office of Public Health (OPH) (residential and outpatient only).
6. A copy of a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, on all owners.
7. Proof of financial viability as evidenced by one of the following:
   a. verification of sufficient assets equal to $100,000 or the cost of three months of operation, whichever is less; or
   b. a letter of credit issued from a federally insured, licensed lending institution in the amount equal to $100,000 or the cost of three months of operation, whichever is less.
8. Proof of general and professional liability insurance of at least $300,000.
9. Proof of worker's compensation insurance.
10. If applicable, clinical laboratory improvement amendments (CLIA) certificate.
11. Disclosure of ownership and control information.
12. A readable 11x17 minimum copy floor sketch of the premises to be licensed, including room usage and dimensions (residential and outpatient only).
13. The days and hours of operation (outpatient only).
14. A copy of the articles of organization or articles of incorporation.
15. Any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the department will notify the applicant of the missing information and the deadline to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days of notification, the application will be closed. Once an initial licensing application is closed, an applicant who is still interested in becoming an ABI facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application has been approved by LDH, the ABI facility applicant shall notify LDH of readiness for an initial survey. If an applicant fails to notify LDH of readiness for an initial survey within 90 days of approval of the application, the application will be closed.

1. After an initial licensing application is closed, an applicant who is still interested in becoming an ABI facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the department will issue the ABI facility an initial license to operate.

E. When issued, the initial ABI facility license shall specify the number of beds, if applicable (residential facility only) and the type(s) of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8709. Initial Licensure Surveys

A. Prior to the initial license being issued to the ABI facility, an initial licensing survey shall be conducted on-site at the ABI facility to assure compliance with the ABI facility licensing standards. The initial licensing survey of an ABI facility shall be an announced survey.

B. No client shall be provided services by the ABI facility until a license is issued to the ABI facility by the LDH.

C. Once an ABI facility has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other applicable statutes, laws, ordinances, rules and regulations. These surveys shall be unannounced.

1. A plan of correction may be required from an ABI facility for any survey where deficiencies have been cited. Such plan of correction shall be submitted to LDH for approval within the prescribed timeframe.

2. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

3. The department may issue appropriate sanctions, including, but not limited to, civil fines, directed plans of correction, provisional licensure and license revocation for deficiencies and non-compliance with any survey.

4. Pursuant to applicable state law, rules and regulations, monies collected from the imposition of civil fines shall be used for the benefit of clients in adult brain injury facilities.

D. The department's surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any facility staff, participant, or person receiving services, as relevant and necessary to conduct a survey or investigation.

E. The department shall issue written notice to the facility of the results of any survey in a statement of deficiencies, along with notice for a plan of correction, if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8711. Complaint Investigations

A. The department shall conduct complaint investigations in accordance with R.S. 40:2009.13, et seq.

B. Complaint investigations shall be unannounced.

C. Upon request by the department, an acceptable plan of correction shall be submitted by the facility for any complaint investigation where deficiencies have been cited. Such plan of correction shall be submitted within the prescribed timeframe.

D. A follow-up survey may be conducted for any complaint investigation where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of correction, provisional licensure, denial of license renewal and license revocation for non-compliance with any state law or regulation.

F. The department's surveyors and staff shall be:

1. given access to all areas of the ABI facility and all relevant files during any complaint investigation; and

2. allowed to interview any facility staff or resident, as necessary or required to conduct the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8713. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to an ABI facility shall be displayed in a prominent place in the facility premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an ABI facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration for any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, the violation, or the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11, et seq., and as provided in this Chapter for license denials, revocations and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

6. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8715. Types of Licenses

A. In the event that the initial licensing survey finds that the ABI facility is compliant with all licensing laws and regulations, and is compliant with all other applicable required statutes, laws, ordinances, rules, regulations and fees, the department shall issue a full license to the facility. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

B. In the event that the initial licensing survey finds that the ABI facility is non-compliant with any licensing laws or regulations or any other applicable required statutes, laws, ordinances, rules or regulations, but the department in its sole discretion determines that the non-compliance does not present a threat to the health, safety or welfare of the participants or persons receiving services, the department may issue a provisional initial license for a period not to exceed six months.

1. The facility shall submit a plan of correction to LDH for approval and shall be required to correct all such non-compliance or deficiencies prior to the expiration of the provisional license.

a. If all such non-compliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

b. If all such non-compliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies that are a threat to the health, safety or welfare of the client(s) are cited on the follow-up, the provisional license will expire.

i. If the applicant still wishes to operate as an ABI facility, it shall begin the initial licensing process again by submitting a new initial license application packet and fee.

C. The department may renew the license of an existing licensed ABI facility that is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked or suspended.

D. The department, in its sole discretion, may issue a provisional license to a licensed ABI facility for a period not to exceed six months, for any one of the following reasons:

1. the ABI facility has more than five deficient practices or deficiencies cited during any one survey;

2. the ABI facility has more than three validated complaints in one licensed year period;

3. the ABI facility has been issued a deficiency that involved placing a participant at risk for serious harm or death;

4. the ABI facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey;

5. the ABI facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees at the time of renewal of the license; or

6. there is documented evidence that a representative of the facility has, with or without the knowledge or consent of facility's owner, medical director and/or administrator/director, bribed, harassed, offered, paid for or received something of economic value for the referral of an individual to use the services of a particular brain injury facility.

E. When the department issues a provisional license to a licensed ABI facility, the department may conduct an on-site follow-up survey at the ABI facility prior to the expiration of the provisional license. The existing facility with a provisional license is required to correct all non-compliance or deficiencies at the time the follow-up survey is conducted.

1. If the on-site follow-up survey determines that the ABI facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ABI facility license.

2. If the on-site follow-up survey determines that the ABI facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire.

a. If this occurs, the facility shall coordinate and arrange for discharge or transfer of the clients, as appropriate.

F. If a licensed ABI facility has been issued a notice of license revocation, suspension or modification, and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect the license revocation, suspension or modification, or any other sanction imposed by the department for violations prior to the denial of the renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8717. Changes in Licensee Information or Key Personnel

A. A license shall apply only to the location stated on the application and such license, once issued, shall not be transferable from one place to another or from one person to another.

B. Any change in the facility regarding the following shall be reported in writing to the department no less than five days prior to the change:

1. entity name;
2. doing business as (dba) name;
3. geographic address;
4. mailing address and/or electronic address; and
5. telephone number(s) and fax number(s).

C. For a change in facility address, a new license with a new license number will be issued upon receipt by the department of a new completed application and the licensing fee required for a change of address. The anniversary date shall be changed to reflect the date of issuance of the new license.

D. Any change regarding the ABI facility's key administrative personnel shall be reported in writing to the department within five days of the change. Key administrative personnel include the facility director and the nursing director. The facility's notice to the department shall include the individual's name, address, hire date and qualifications.

E. Any request for a duplicate license shall be accompanied by the required fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8719. Change of Ownership

A. The license of an ABI facility is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

C. A CHOW of a facility shall not be submitted at time of the annual renewal of the facility's license.

D. Before an initial license can be issued to the new owner, all licensing application requirements in accordance with the provisions of this Chapter shall be met.

E. The applicant shall submit to the department, pursuant to §8707 above, the following licensing requirements, including but not limited to:

1. the completed facility license application and non-refundable fee;

2. the disclosure of ownership documentation;

3. a copy of a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, on all owners;

4. proof of financial viability as evidenced by one of the following:

a. verification of sufficient assets equal to $100,000 or the cost of three months of operation, whichever is less; or

b. a letter of credit issued from a federally insured, licensed lending institution in the amount equal to $100,000 or the cost of three months of operation, whichever is less;

5. proof of general and professional liability insurance of at least $300,000;

6. proof of worker's compensation insurance;

7. if applicable, CLIA certificate of waiver;

8. disclosure of ownership and control information;

9. the days and hours of operation (outpatient only);

10. a copy of the articles of organization or articles of incorporation; and

11. any other documentation or information required by the department for licensure.

F. An ABI facility may not undergo a CHOW if any of the following conditions exist:

1. an ABI facility whose licensure is provisional, is under revocation or is in denial of renewal;

2. an ABI facility is in a settlement agreement with the department; and/or

3. an ABI facility has ceased to operate and does not meet operational requirements to hold a license.

G. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

H. If the CHOW results in a change of geographic address, an on-site survey shall be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8721. Renewal of License

A. License Renewal Application.

1. In order to renew a license, the ABI facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license.

2. The license renewal application packet shall include:

a. the license renewal application;

b. a current fire inspection and a current health inspection, if applicable;

c. the license renewal fee; and

d. any other document required by the department.

3. Upon receipt of the completed license renewal application packet, the department shall determine if the ABI facility continues to meet the statutory and regulatory requirements for ABI facilities. The department may perform an on-site survey upon annual renewal at intervals deemed necessary by the department to determine compliance.

4. Failure to submit to the department a completed license renewal application packet prior to the expiration of the current license will result in the voluntary surrender of the ABI facility license.

a. There is no right to an informal reconsideration or an administrative appeal of a voluntary surrender of a license by the facility.

B. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8723. Denial of License, Revocation of License, License Suspension and Denial of License Renewal

A. The department may deny an application for a license, may deny a license renewal, may suspend a license or may revoke a license in accordance with the provisions of the Administrative Procedure Act (APA).

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ABI facility is non-compliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the clients or persons receiving services.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ABI facility is non-compliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety or welfare of the clients or persons receiving services.

3. The department shall deny an initial license for any of the reasons that a license may be revoked or denied renewal.

C. Revocation of License, Suspension of License or Denial of License Renewal. An ABI facility license may be revoked, suspended, or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ABI facility licensing laws, rules and regulations;

2. failure to be in substantial compliance with other applicable statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. failure to uphold client rights whereby deficient practices may result in harm, injury or death of a client;

5. failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation; or

e. harassment;

6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof.

7. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical, client or facility records;

d. matters under investigation by the department or the Office of the Attorney General;

e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising;

10. fraudulent operation of an ABI facility by the owner, director/administrator or manager;

11. an owner, officer, member, manager, director/administrator or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;

NOTE: For purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse or negligence of a person, or to the misappropriation of property belonging to another person.

12. failure to comply with all reporting requirements in a timely manner as required by the department;

13. submission of non-sufficient funds for any payment to the department;

14. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview facility staff or participants;

15. failure to allow or refusal to allow access to authorized departmental personnel to records; or

16. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ABI facility.

E. If the secretary of the department determines that violations of the facility pose an imminent or immediate threat to the health, welfare or safety of a participant or person receiving services, the secretary may suspend the license. A license suspension is immediate and shall be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing of such determination.

F. In the event an ABI facility license is revoked, suspended or renewal is denied, any owner, officer, member, manager and director/administrator of such ABI facility is prohibited from owning, managing, directing or operating another ABI facility for a period of two years from the date of the final disposition of the revocation, suspension or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8725. Notice and Appeal of License Denial, License Revocation, License Suspension and Denial of License Renewal

A. Notice of a license denial, license revocation, license suspension or denial of license renewal shall be given to the facility in writing.

B. The ABI facility has a right to an administrative reconsideration of the license denial, license revocation, license suspension or denial of license renewal.

1. The ABI facility has 15 calendar days from the receipt of the notice of the license denial, license revocation or denial of license renewal to request an administrative reconsideration. The request for administrative reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by the Health Standards Section, an administrative reconsideration shall be scheduled; the facility shall be notified in writing of the scheduled date.

4. The facility shall have the right to appear in person at the administrative informal reconsideration; the facility may be represented by counsel at the administrative reconsideration.

5. Correction of a violation or deficiency which is the basis for the denial, revocation, suspension or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the administrative reconsideration.

C. The ABI facility has a right to an administrative appeal of the license denial, license revocation, license suspension or denial of license renewal.

1. The ABI facility has 30 days from receipt of the notice of the results of the administrative reconsideration of the license denial, license revocation, license suspension or denial of license renewal to request an administrative appeal.

a. The ABI facility may forego its rights to an administrative reconsideration, and if so, shall request the

administrative appeal within 30 calendar days of the receipt of the written notice of the initial license denial, license suspension, revocation or non-denial of license renewal.

b. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL) or its successor.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal of a license revocation or denial of license renewal is made, then the license revocation or denial of license renewal action shall be suspensive during the pendency of the appeal. The facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

4. A license suspension is immediate and shall be enforced during the pendency of the administrative appeal.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on an initial license denial, denial of license renewal or license revocation, the DAL, or its successor, shall conduct the hearing in accordance with the APA.

1. If the final agency decision is to reverse the initial license denial, denial of license renewal or license revocation, the facility's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the denial of license renewal or license revocation, the facility shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final agency decision, the facility shall notify HSS, in writing, of the secure and confidential location where the client records will be stored and the name and contact information of the person(s) responsible for the client records.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance or expiration of a provisional license.

F. A facility with a provisional license that expires due to deficiencies cited at the follow-up survey shall have the right to an informal reconsideration and the right to an administrative appeal only as to the validity of such cited deficiencies.

1. The correction of any deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to the whether the deficiencies were properly cited at the follow-up survey.

3. The facility shall request the informal reconsideration within five days of receipt of the notice of the results of the follow-up survey from the department.

4. The facility shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department.

5. A facility with a provisional license that expires under the provisions of this Subsection shall cease providing services unless the DAL issues a stay of the expiration. The stay may be granted by the DAL upon application by the facility at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the clients being served by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8727. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or clients.

1. Except as provided in §8729 (Temporary Inactivation of a License Due to a Declared Disaster or Emergency) and §8731 (Inactivation of License due to Non-Declared Emergency or Disaster) of these licensing regulations, a license shall be immediately null and void if an ABI facility ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or voluntary closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days advance written notice to:
   a. the department;
   b. clients; and
   c. attending physicians; and

2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days advance written notice, the facility shall submit a written plan for the disposition of client services-related records for approval by the department. The plan shall include the following:

1. the effective date of the closure;

2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed facility's client services-related records;

3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the client or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to

the closing facility, at least 15 days prior to the effective date of closure.

F. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an ABI facility for a period of two years.

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8729. Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the facility intends to resume operation as an ABI facility in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another facility; and

e. provides a list of each client and where that client is discharged or transferred;

2. the facility resumes operating as an ABI facility in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the ABI facility continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the ABI facility continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ABI facility license, the department shall issue a notice of inactivation of license to the ABI facility.

C. Upon completion of repairs, renovations, rebuilding or replacement, the ABI facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The ABI facility shall submit a written license reinstatement request to the licensing agency of the department at least 15 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The facility resumes operating as an ABI facility in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ABI facility license, the department may conduct a licensing survey. If the ABI facility meets the requirements for licensure and the requirements under this Section, the department will issue a notice of reinstatement of the ABI facility license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity as approved by the OSFM.

E. No change of ownership in the ABI facility shall occur until such ABI facility has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an ABI facility.

F. The provisions of this Section shall not apply to an ABI facility which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ABI facility license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8731. Inactivation of License due to Non-Declared Emergency or Disaster

A. An ABI facility in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the ABI facility shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the ABI facility has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the ABI facility intends to resume operation as an ABI facility in the same service area;

c. the ABI facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the ABI facility's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

2. the ABI facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

3. the ABI facility continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to temporarily inactivate an ABI facility license, the department shall issue a notice of inactivation of license to the ABI facility.

C. Upon the ABI facility's receipt of the department's approval of request to inactivate the ABI facility's license, the ABI facility shall have 90 days to submit plans for the

repairs, renovations, rebuilding or replacement of the facility to the OSFM and the OPH as required.

D. The ABI facility shall resume operating in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the ABI facility requires an extension of this timeframe due to circumstances beyond the ABI facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the ABI facility's active efforts to complete construction or repairs and the reasons for request for extension of the ABI facility's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an ABI facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ABI facility shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an ABI facility license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the ABI facility has met the requirements for licensure including the requirements of this Subsection.

NOTE: The licensed capacity of the reinstated license shall not exceed the licensed capacity as approved by the OSFM.

G. No change of ownership of the ABI facility shall occur until such facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ABI facility.

H. The provisions of this Section shall not apply to an ABI facility which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the ABI facility license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8733. Operating Without a License or in Violation of Departmental Regulations, Fines and Injunctive Relief

A. In accordance with applicable state laws, rules and regulations, the department shall fine any ABI facility that operates without a valid license issued by the department, or operates in violation of departmental regulations. Such fines are not to exceed two hundred fifty dollars for each day of such offense.

B. Any such fines levied and collected by the department, subject to applicable law, shall be used for the benefit of clients in ABI facilities and shall be distributed in accordance with criteria promulgated by rules of the department.

C. Notwithstanding the provisions of this Section, the department may impose a fine(s) pursuant to R.S. 40:2199 and the regulations promulgated thereunder.

D. The facility may request an administrative reconsideration and/or an administrative appeal of a fine in accordance with the delay, notice and other procedures set forth in R.S. 40:2199 and the regulations promulgated thereunder.

E. If any ABI facility operates without a valid license issued by the department, or in violation of departmental regulations, the department may cause a civil suit to be instituted in a district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons or any group operating the facility from continuing the violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8735. Fees

A. Any remittance submitted to the department in payment of a required fee shall be in the form of a company or certified check or money order made payable to the "Louisiana Department of Health".

B. Fee amounts shall be determined by the department.

C. Fees paid to the department are not refundable.

D. A fee is required to be submitted with:

1. an initial application;
2. a renewal application;
3. a change of controlling ownership;
4. a change of name or physical address; and
5. each offsite Residential location.

E. Submission of fees that are returned for non-sufficient funds may result in the license being denied, either initially or at time for renewal, revoked or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

Subchapter B. Organization and Administration

§8741. Governing Body

A. Governing Body. The ABI facility shall have an identifiable governing body which has the responsibility and authority for the policies and procedures of the facility.

1. The governing body shall be designated in writing.

2. When the governing body of a facility is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written bylaws specifying frequency of meetings and quorum requirements. There shall be written minutes of all meetings.

3. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

B. Responsibilities of the Governing Body. The governing body of an ABI facility shall:

1. ensure the facility's compliance and conformity with the facility's policies and procedures;

2. ensure the facility's continual compliance and conformity with all relevant federal, state and local laws and regulations;

3. ensure that the facility is adequately funded and fiscally sound;

4. review and approve the facility's annual budget;

5. designate a person to act as director and delegate sufficient authority to this person to manage the facility (a sole owner may be the director);

6. formulate and annually review, in consultation with the director, written policies concerning the facility's philosophy, goals, current services, personnel practices, job descriptions and fiscal management; and

7. annually evaluate the director's performance (if a sole owner is not acting as director).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8743. Governing Body Responsibilities

A. An ABI facility shall comply with all federal, state and local laws, rules and regulations in the development and implementation of its policies and procedures. The governing body shall ensure all of the following requirements are met.

B. Policies and Procedures. The facility shall have:

1. written policies and procedures approved by the governing body that address the following:

a. confidentiality of client information and security of client files;

b. advertising;

c. personnel;

d. client's rights;

e. a grievance procedure to include documentation of grievances, investigation, resolution and response to complainant in a timely manner, time frame in which facility will respond, and an appeals process for grievances;

f. safekeeping of personal possessions, if applicable;

g. clients' funds, if applicable;

h. emergency and evacuation procedures;

i. abuse, neglect and exploitation, and documentation and reporting of same;

j. incidents and accidents and documentation of same;

k. admissions and discharge procedures;

l. medication administration; and

m. safety of the client while being transported by an agency employee, either contracted or staff, that includes a process for evaluation of the employee's driver's license status inquiry report which may prohibit an employee from transporting clients;

2. minutes of formal governing body meetings;

3. organizational chart of the facility; and

4. written leases, contracts and purchase-of-service agreements (including all appropriate credentials) to which the facility is a party.

C. Organizational Communication

1. A facility shall establish procedures to assure written communication among personnel to provide continuity of services to all clients.

2. Direct care staff shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

D. Confidentiality and Security of Records. The facility shall ensure the confidentiality of client records, including information in a computerized medical record system, in accordance with applicable federal privacy laws and any state laws and regulations which provide a more stringent standard of confidentiality than the applicable federal privacy regulations and laws.

1. Information from, or copies of, records may be released only to authorized individuals, and the facility shall ensure that unauthorized individuals cannot gain access to or alter client records.

2. Original medical records shall not be released outside the facility unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

E. Clinical Records

1. A facility shall maintain a separate record for each client. Such record shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

2. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

3. Each record shall include but not be limited to at least the following information:

a. identifying information to include at least client's name, marital status, date of birth and gender;

b. dates of admission and discharge;

c. client's written authorization and contact information of the representative or responsible person;

d. name and 24 hour contact information for the primary physician and any other physician involved in the client's care;

e. the admission assessment;

f. individual service plan, updates and quarterly reviews;

g. progress notes of care and services received and response to treatment;

h. a record of all personal property and funds which the client has entrusted to the facility; and

i. written acknowledgements that the client has received verbal and written notice of client's rights, grievance procedures and client's responsibilities.

4. Storage of any client information or records may be maintained electronically or in paper form.

a. If stored electronically, documents shall be viewable and reproducible as necessary and relevant.

F. Advertising. A facility shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients for the purposes of advertising.

1. No client shall be photographed or recorded without the client's or representatives' prior informed written consent.

a. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

b. Consent agreements shall clearly notify the client of his/her rights under this regulation and shall specify

precisely what use is to be made of the photograph or recordings.

c. Consents are valid for a maximum of one year from the date of execution.

d. Clients are free to revoke such agreements at any time, either orally or in writing.

2. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

G. Personnel Policies. A facility shall have written personnel policies that include:

1. orientation, ongoing training, development, supervision and performance evaluation of personnel members;

2. written job descriptions for each position, including volunteers;

3. requirements for a health assessment of personnel prior to employment. These policies shall, at a minimum, require that the individual has no evidence of active tuberculosis and is re-evaluated as recommended by the Office of Public Health;

NOTE: Policies shall be in accordance with state rules, laws and regulations for employees, either contracted or directly employed, and volunteers.

4. abuse prevention and reporting procedures that include what constitutes abuse, how to prevent it and requirement that all personnel report any incident of abuse or neglect to the director or his/her designee, whether that abuse or neglect is done by another staff member, either contracted or directly employed, a family member, a client or any other person;

5. criteria for determining employment based on the results of a statewide criminal background check conducted by the Louisiana State Police, or its designee, which shall be conducted upon hire, rehire and in accordance with facility policy for any unlicensed facility personnel;

a. the facility shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

6. clarification of the facility's prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media and include, at a minimum, ensuring confidentiality of client information and preservation of client dignity and respect, including protection of client privacy and personal and property rights.

H. Orientation

1. A facility's orientation program shall include training in the following topics for all personnel:

a. the policies and procedures of the facility, including but not limited to the prohibited use of social media;

b. emergency and evacuation procedures;

c. client's rights;

d. abuse and neglect prevention and requirements concerning the reporting of abuse and neglect of clients;

e. procedures for reporting of incidents and accidents; and

f. instruction in the specific duties and responsibilities of the employee's job and a competency evaluation of those duties and responsibilities.

2. Orientation for direct care staff, either contracted or directly employed, shall include the following:

a. training in client care services (ADL'S and IADL'S) provided by the facility;

b. infection control to include universal precautions;

c. any specialized training to meet clients' needs; and

d. a new employee shall not be given sole responsibility for the implementation of a client's program plan until this training is documented as successfully completed.

3. All direct care staff shall receive and/or have documentation of certification in basic life support and general first aid procedures within the first 30 days of employment. Direct care staff, either contracted or directly employed, shall have this training prior to being assigned sole responsibility for a client's care.

4. In addition to the topics listed above, orientation for direct care staff, either contracted or directly employed, shall include an evaluation to ensure competence to provide ADL and IADL assistance.

5. A new direct care staff employee shall not be assigned to carry out a client's care until competency has been demonstrated and documented.

I. Annual Training

1. A facility shall ensure that each direct care staff participates in required training each year. Routine supervision of direct care staff shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff, either contracted or directly employed, receive training on an annual basis in:

a. facility's policies and procedures;

b. emergency and evacuation procedures;

c. client's rights;

d. abuse and neglect prevention and requirements concerning the reporting of abuse and neglect and incidents and accidents;

e. client care services (ADL'S & IADL'S);

f. infection control to include universal precautions; and

g. any specialized training to meet clients' needs.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in basic life support and general first aid.

J. Evaluation. An employee's annual performance evaluation shall include his/her interaction with clients, family, and other employees.

K. Personnel Files

1. A facility shall maintain a separate personnel record for each employee. At a minimum, this file shall contain the following:

a. the application for employment including the applicant's education, training and experience;

b. a statewide criminal background check conducted by the Louisiana State Police, or its designee, prior to an offer of employment for any unlicensed personnel;

i. the facility shall have documented disposition of any charges, if applicable;

c. evidence of applicable professional credentials;

d. documentation of required health assessment as defined in the facility's policies;

e. annual performance evaluation;

f. employee's hire and termination dates;

g. documentation of orientation and annual training;

h. documentation of competency evaluations for duties assigned, including, but not limited to, safety in transporting clients;

i. documentation of a current, unrestricted driver's license (if driving or transporting clients);

j. documentation of a current driver's license status inquiry report available on-line from the State Office of Motor Vehicles for staff, either contracted or directly employed, who are required to transport clients as part of their assigned duties; and

k. comply with the provisions of R.S. 40:2179-2179.2 and the Rules regarding the direct service worker registry.

2. A facility shall not release an employee's personnel file without the employee's written permission, except as required by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8745. Required Staffing

A. Each ABI facility shall be staffed to sufficiently safeguard the health, safety and welfare of the clients, as required by these regulations.

B. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

1. Director

a. Each facility shall have a qualified director who is an employee of the facility. Responsibilities include the day-to-day management, supervision, operation of the facility and ensuring the individual service plan is implemented and carried out.

i. It is the responsibility of the director to contact the client's representative, if applicable, and request assistance to help the client in adjusting to the facility at the first indication of an adjustment problem.

b. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge that has the knowledge and authority to handle any situation that may occur.

c. Director Qualifications. The director shall, at least, meet one of the following criteria upon date of hire:

i. a bachelor's degree from an accredited university or college plus two years of experience in the fields of health, social services, geriatrics, management or administration; or

ii. a master's degree from an accredited university or college in geriatrics, health care administration, or in a human service related field or their equivalent; or

iii. in lieu of a degree, six years of experience in health, social services, geriatrics, management, administration or a combination of undergraduate education and experience for a total of six years.

d. The director shall be at least 21 years of age.

2. Nursing Director. The nursing director or an equally qualified RN shall be available by telecommunications or able to be on-site as needed 24 hours/day.

a. Qualifications. Each facility shall have a nursing director who is currently licensed as a registered nurse in Louisiana without restrictions.

b. Responsibilities. The responsibilities of a nursing director are to advance community integration through:

i. overseeing the medication management program,including staff training to implement the program;

ii. assisting the client in the restoration and maintenance of maximal health;

iii. consulting the primary physician to advance the client with their medication management program;

iv. advancing understanding of their unique medical and pharmacological needs;

v. improving the client's quality of life; and

vi. ensuring nursing care is provided in accordance with the client's individual service plan.

3. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social program(s) of the facility.

4. Direct Care Staff

a. An ABI facility shall have staff sufficient in number and qualifications on duty at all times to meet the needs of clients.

b. An ABI facility that operates on a 24 hour basis shall have staff on duty 24 hours a day, seven days a week.

c. Direct care staff may include care assistants, social workers, activities personnel or other staff who provide direct care services to clients on a regular basis. If employed at more than one facility, direct care staff shall notify each facility of employment and shall ensure their schedule does not overlap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

Subchapter C. Client Protection

§8751. Client Rights

A. The facility shall have a written policy regarding client's rights. The policy shall assure the client has the right to:

1. not be deprived of civil or legal rights;

2. not be denied admission, segregated or otherwise subjected to discrimination on the basis of race, sex, handicap, creed, national background or ancestry; a facility that is a religious organization may limit admissions to its own adherents;

3. live within the least restrictive environment possible in order to retain their individuality and personal freedom; staff shall knock and request entrance before entering any bedroom;

4. be treated as individuals and with dignity, be assured choice and privacy and the opportunity to act autonomously, take risks to enhance independence and share responsibility for decisions;

5. be allowed to participate, and have family participate, if desired, in the planning of activities and services;

6. receive or refuse care and services that are adequate, appropriate and in compliance with conditions of residency, relevant federal and state laws, rules and regulations;

7. be free from mental, emotional and physical abuse and neglect and assured that no chemical restraints will be used;

8. have records and other information about the client kept confidential and released only with a client's expressed written consent;

9. have a service animal for medical reasons;

10. have visitors of their choice, as long as the rights of others are not infringed upon;

11. have access to private telephone communication;

12. send and receive mail promptly and unopened;

13. furnish their own rooms and use and maintain personal clothing and possessions as space permits;

14. manage his or her personal funds unless such authority has been delegated to another.

NOTE: If authority to manage personal funds has been delegated to the facility, the client has the right to examine the account during business hours;

15. have freedom to participate in accessible community activities and in social, political, medical, and religious activities and to have freedom to refuse such participation;

16. arrange for third-party services at their own expense, that are not available through the facility as long as the client remains in compliance with the conditions of residency;

17. to be informed of grievance process or procedures and receive response to grievances without fear of reprisal and to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of reprisal or other retaliation;

18. be given written notice of not less than 30 days prior to discharge from the facility, except in life-threatening emergencies and when the client is a danger to himself/herself or to others;

19. remain in the current facility, foregoing a recommended transfer to obtain additional services, if a mutually agreed upon risk agreement is signed by the client, the responsible representative (if any) and the facility as long as it does not place the facility in conflict with these or other laws or regulations;

20. receive at least a 24 hour notice prior to a change in room/unit, be informed of the reason for the move and the right to be informed when their roommate is being changed;

21. live in a physical environment which ensures their physical and emotional security and well-being;

22. retain the services of his/her own personal physician, dentist or other health care provider;

23. confidentiality and privacy concerning his/her medical and dental condition and treatment; and

24. select the pharmacy or pharmacist of their choice.

B. Each client shall be fully informed of these rights and of all rules and regulations governing clients' conduct and responsibilities, as evidenced by written acknowledgement, prior to or at the time of admission and when changes occur. Each client's file shall contain a copy of the written acknowledgement which shall be signed and dated by the director/designee, client and/or representative.

C. A copy of these rights shall be posted conspicuously in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8753. Client Association

A. The facility shall provide a formal process and structure by which clients, in representative groups and/or as a whole, are given the opportunity to advise the director regarding client services and life at the facility. Any client request, concerns or suggestions presented through this process will be addressed by the director within a reasonable time frame, as necessitated by the concern, request or suggestion. The facility shall have policies and procedures addressing the following:

1. the times and frequency of use of the public or communal telephone;

2. visitors;

3. hours and volume for viewing and listening to television, radio, and other media;

4. movement of clients in and out of the home;

5. use of personal property; and

6. care of pets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8755. Grievance Procedure

A. The facility shall establish and have written grievance procedures to include, but are not limited to:

1. a formal process to present grievances;

2. a formal appeals process for grievances; and

3. a process to respond to client requests and/or client grievances in a timely manner, and the time frames in which the facility shall respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8757 Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping of valuable possessions. The facility shall have a written statement of its policy.

1. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

2. The facility shall give the client a receipt listing each item that it is holding in trust for the client. The facility shall maintain a copy of the receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8759. Client Funds

A. If a facility offers the service of safekeeping and/or management of clients' personal funds, the facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any. Any charges assessed shall not exceed the actual cost incurred by the facility for the provision of the services.

B. There is no obligation for a client to deposit funds with the facility or have the facility manage his/her funds, and the facility may not require the client to deposit his/her funds with the facility. If a facility offers the service of

safekeeping and if a client wishes to entrust funds, the facility shall:

1. obtain written authorization from the client and/or his/her representative to safekeeping of funds;

2. provide each client with a receipt listing the amount of money the facility is holding in trust for the client;

3. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction; and

4. not accept more than $300 of a client's money.

C. If a facility offers the service of safekeeping and/or management of clients' personal funds, the facility shall purchase a surety bond or otherwise provide assurance satisfactory to the secretary to assure the security of all personal funds of clients deposited with the facility. In addition, if a client wishes the facility to assist with the management of all their funds, the facility:

1. shall receive written authorization to manage the client's funds from the client and the representative, if applicable;

2. shall only manage a client's money when such management is mandated by the client's service plan; and

3. shall keep funds received from the client for management in an individual account in the name of the client.

D. When a client is discharged, the facility shall refund the balance of the client's personal funds to the client or representative, if applicable, on the date of discharge or no later than the last day of the month of the month of discharge.

E. In the event of the death of the client, the facility shall refund the balance of the client's personal funds to the executor of the client's estate. If there is no executor, the facility shall refund the balance to the representative or responsible party for the client. The refund shall be made within three months of the date of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8761. Emergency and Evacuation Procedures

A. Disaster and emergency plans shall be developed by the governing body, and updated annually, which are based on a risk assessment using an all hazards approach for both internal and external occurrences. Disaster and emergency plans shall include provisions for persons with disabilities.

B. The facility shall develop and implement policies and procedures based on the emergency plan, risk assessment, and communication plan which shall be reviewed and updated at least annually. Such policies shall include a system to track on duty staff and sheltered clients, if any, during the emergency.

C. The facility shall develop and maintain an emergency preparedness communication plan that complies with both federal and state laws. Client care shall be well-coordinated within the facility, across health care providers and with state and local public health departments and emergency systems.

D. Additional Requirements:

1. The ABI facility shall have continuously available telephone service on a 24 hour basis.

2. The ABI facility shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance or show evidence of an alternate means of immediate access to these services.

3. The ABI facility shall have a detailed written plan and procedure including the evacuation of residences or sheltering in place as appropriate to meet all potential emergencies and disasters such as fire, severe weather and missing clients. The ABI facility shall implement this plan in the event that an emergency or disaster occurs. These emergency and evacuation procedures shall include:

a. an agreement with a host or receiving facility, transportation, medications, food and necessary items to be evacuated with clients to safe or sheltered areas. Plans that family may evacuate the client when possible;

b. means for an ongoing safety program including continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies;

c. fire prevention and evacuation plan and this plan shall be posted in each facility in a conspicuous place and kept current;

d. fire drills shall be documented for each shift at least quarterly;

NOTE: The drills may be announced in advance to the clients.

e. shelter in place when appropriate;

f. transportation arrangements for hospitalization or any other services which are appropriate;

g. maintenance of a first aid kit for emergencies; and

h. any emergency equipment appropriate for the ABI facility's client population.

E. The ABI facility shall develop and maintain training and testing programs, including initial training in policies and procedures and demonstrate knowledge of emergency procedures. Such training shall be provided at least annually.

F. The ABI facility shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

G. At any time that the ABI facility has an interruption in services or a change in the licensed location due to an emergency situation, the facility shall notify HSS no later than the next stated business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8763. Incidents/Accidents

A. The ABI facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients. (i.e., death of unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Incidents or accidents shall be documented in the client record. An incident report shall be maintained by the facility.

B. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. circumstances under which the incident occurred; names of clients, staff and others involved;

2. date and time the incident occurred;

3. where the incident occurred (bathroom, bedroom, street, lawn, etc.);

4. immediate treatment and follow-up care;

5. name and address of witnesses and their statements;

6. date and time family or representative was notified;

7. symptoms of pain and injury discussed with the physician; and date and time physician was notified; and

8. signatures of the staff completing the report, client and director.

C. Critical Incidents. When an incident results in death of a client, involves abuse or neglect of a client, or entails any serious threat to the client's health, safety or well-being the facility shall:

1. immediately report verbally to the director and submit a preliminary written report within 24 hours of the incident;

2. immediately notify the department and local law enforcement agency according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

3. immediately notify the family or representative of the client;

4. provide follow-up written reports of the completed investigation to all the above persons and agencies;

5. take appropriate corrective action to prevent future incidents; and

6. document its compliance with all of the above procedures for each incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8765. Abuse and Neglect

A. The ABI facility shall develop, implement and comply with facility-specific written policies and procedures related to compliance with this Section, including, but not limited to policies and procedures that include provisions for:

1. protect clients from abuse/neglect and/or injury inflicted by other clients, staff or third parties;

2. ensure that the client and/or reporter of the abuse is protected from potential harassment during the investigation;

3. ensure training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

4. ensure that procedures for reporting critical incidents involving abuse and neglect are followed; and

5. ensure that the director completes an investigation report within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

Subchapter D. Admissions, Transfers and Discharges

§8771. Admission

A. Admission Criteria

1. The ABI facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to:

a. the application process and the possible reasons for the rejection of an application;

b. types of clients suitable to the ABI facility; and

c. services offered and allowed in the ABI facility.

2. An ABI facility may accept or retain clients in need of additional care beyond routine personal care provided that:

a. the client or the representative, if applicable, and the facility agree that acceptance or retention of the client is appropriate; and

b. the facility has the capability of meeting the needs of the client.

B. Admissions Agreement

1. The ABI facility shall complete and maintain individual written admission agreements with all persons admitted to the facility or with their representative. The facility contract/admissions agreement shall specify:

a. clear and specific occupancy criteria and procedures(admission, transfer and discharge);

b. basic services to be made available;

c. optional services which are available;

d. payment provisions, including the following:

i. covered and non-covered services; and

ii. payor or funding source;

e. client's code of conduct for participation in the program and client's agreement to abide by the same;

f. the facility shall notify the client or representative at least 30 days prior to rate changes;

g. refund criteria;

h. that the department has the authority to examine clients' records as part of the evaluation of the facility;

i. division of responsibility between the facility, client, family or others (e.g., arranging for or overseeing medical care, purchase of essential or desired supplies, emergencies, monitoring of health, handling or finances);

j. clients' rights;

k. explanation of the grievance procedure and appeals process; and

l. the development of a service plan specific to the individual client, including participation of the client and/or representative in the development of the plan.

2. The admissions agreement shall be signed by the director and by the client and the representative, if applicable.

C. At the time of admission the ABI facility shall:

1. obtain from the client or the client's family or representative, their plan for both routine and emergency medical care to include the name of physician(s) and provisions and authorization for emergency medical care;

2. document that the client and/or representative was informed of the ABI facility's emergency and evacuation procedures; and

3. if the client has executed a medical power of attorney or an advanced directive, the facility shall maintain a copy of these documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8773. Transfer or Discharge

A. The director shall, in consultation with the client and the representative, if applicable, assist in planning and implementing the transfer or discharge of the client when:

1. the client's adjustment to the ABI facility is not satisfactory as determined by the director in consultation with the client or his/her representative;

2. the client is in need of services that the facility cannot provide or obtain for the client; or

3. the client or representative has failed to pay all fees and costs stated in the admission agreement or otherwise materially breached the admission agreement.

B. When a discharge or transfer is initiated by the facility, the director shall provide the client, and his/her representative, if applicable, with 30 days prior written notice citing the reason for the discharge or transfer, except shorter notice may be given in cases where the client is a danger to self or others.

C. At the request of the client or representative and receiving facility, copies of all pertinent information shall be given to the director of the licensed facility to which the client is transferred.

D. The following discharge information shall be recorded in the client's record:

1. date of discharge;
2. transfer facility;
3. reason(s) for discharge; and
4. condition upon discharge.

E. Client records shall be retained for at least six years from the date of discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

Subchapter E. Participation Requirements

§8777. Services

A. Assessment, Service Coordination, and Monitoring

1. Within seven days of admission, the facility shall complete an assessment to determine the needs and preferences of the client. The assessment shall include but is not limited to:

a. review of physical health, psycho-social status and cognitive status and determination of services necessary to meet those needs;

b. a summary of the client's health needs, if any, including medication, treatment and special diet orders obtained from professionals with responsibility for the client's physical or emotional health;

c. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client, the client's physician, family or representative;

d. the client's interests, likes and dislikes;

e. recreational and social activities which are suitable or desirable;

f. a plan for handling special emergency evacuation needs; and

g. additional information or documents pertinent to the client's service planning, such as guardianship papers, power of attorney, living wills, do-not-resuscitate orders, or other relevant medical documents.

2. Within 30 days after admission, the facility, with input from the client, and/or his/her representative shall develop and implement a service plan using information from the assessment. The service plan shall include:

a. the client's needs;

b. the scope, frequency and duration of services and monitoring that will be provided to meet the client's needs;

c. staff responsible for providing the services inclusive of third party providers;

d. current medication list from the client's primary care physician; and,

e. identification of the level of assistance that the client requires.

3. The facility shall have a reporting procedure in place for notifying appropriate individuals of any changes in a client's condition.

4. The client's service plan shall be revised when a client's condition or preferences change and signed by the client and the representative, if applicable, and the designated facility staff.

5. The service plan shall be monitored on an ongoing basis to assess its appropriateness and to identify when a client's condition or preferences have changed.

6. A documented review of the client's service plan shall be made at least every three months.

7. All plans and reviews shall be signed by the client, facility staff and the representative, if applicable.

B. Personal and Supportive Services

1. The facility shall provide adequate services and oversight/supervision, including adequate security measures, continuously as needed for any client.

2. The facility shall provide or coordinate services, to the extent needed or desired by clients.

3. The client may participate in these services as written in his/her service plan. The following services are required to be offered:

a. assistance with all ADLs and IADLs;

b. at least three nutritious, varied, and palatable meals a day, seven days a week, that take into account client's dietary requirements, preferences and needs in residential facilities;

i. nourishing snacks, such as fruits and beverages, shall be available to residents at all times; and

ii. the ABI facility shall furnish medically prescribed diets to all clients for which it is designated in the service plan;

c. basic personal laundry services in residential facilities;

d. opportunities for individual and group socialization and to utilize community resources to create a normal and realistic environment for community interaction within and outside the facility (i.e. barber/beauty services, social/recreational opportunities);

e. services for clients who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

f. household services essential for the health and comfort of client (e.g. floor cleaning, dusting, bed making, etc.) in residential facilities;

g. assistance with self-administration of medications; and

h. a program of recreational activities.

C. Medication Management. The ABI facility shall have a medication management program. The medication management program shall be formulated in consultation with the client's primary physician and overseen by the nursing director.

1. The facility shall have written policies and procedures for the implementation of the medication management program.

2. The facility shall assist clients in the self-administration of prescription and non-prescription medication as agreed to in their contract or service plan, as allowed by state statute/regulations and overseen by the nursing director. Only clients who have awareness of their medication regime shall be provided assistance by direct care staff with self-administration of medications.

3. Assistance with self-administration of medications shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container may be read to the client;

c. the dosage may be verified by staff, according to the container label; and

d. staff may physically assist the client in pouring or handling medications, including opening the medicine container (i.e. bottle, mediset, blister pak, etc.), if the client lacks the ability to open the container.

4. If the client has been assessed as able to utilize a pill organizer box, such pill organizer box may be filled by the nursing director or designee, the client with supervision or the client's representative.

5. The facility shall thoroughly review the medication administration staff's ability to follow policy and procedures regarding assisting with medication administration.

6. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance.

a. Documentation of training shall include the signature of the employee.

b. Training shall be repeated at least annually.

c. Training for direct care staff assisting with medication management shall include but not be limited to the following:

i. legal aspects of medication assistance;

ii. understanding roles and responsibilities in medication assistance;

iii. definitions of medical terminology;

iv. classifications of medications;

v. identification of medication;

vi. dosing and measurement of medications;

vii. mechanism of action, therapeutic effects of drugs, and response to medications;

viii. education on side effects, observation, reporting and documentation of side effects; and

ix. care and safe handling of medications.

7. Direct care staff assisting with medication management shall meet the following:

a. be a minimum of 18 years of age;

b. able to read, write and comprehend the English language; and

c. have no current evidence of drug use, drug abuse or diversion of drugs and no record of conviction of a felony.

8. Limitations. Medication assistance is limited to assistance with oral medication, inhalant medication, topical applications, suppository medication, eye and ear drops as prescribed and documented in the service plan.

a. Direct care staff providing medication assistance shall not assist with any intramuscular, intravenous or subcutaneous medications.

b. Direct care staff providing medication assistance shall not receive or assume responsibility for writing oral or telephone orders from a physician.

c. Direct care staff providing medication assistance shall not alter medication dosages, as delivered from the pharmacy, without being instructed to do so by the nursing director, in accordance with prescribed medication orders.

9. The facility shall ensure that a client's medications shall be securely stored by the client in the client's own bedroom or stored in a secure central location in the facility, as appropriate for each individual client.

D. Transportation

1. The facility shall have the capacity to provide or to arrange transportation as necessary for the following:

a. medical services, including ancillary services for medically related care (e.g., physician, pharmacist, therapist, podiatrist);

b. personal services, including barber/beauty services;

c. personal errands; and

d. social/recreational opportunities.

2. The facility shall ensure and document that any vehicle used in transporting clients, whether such vehicles are operated by a staff member or any other person acting on behalf of the facility, is inspected, licensed and insured in accordance with state law.

3. When transportation services are provided by the facility, whether directly or by third party contract, the facility shall document and ensure that drivers have a valid driver's license and that drivers have a current insurable driving recordas evidenced by a driver's license status inquiry report available on-line from the Office of Motor Vehicles.

4. When transportation services are provided by the ABI facility, the facility shall ensure that drivers are trained and experienced in assisting a resident being transported, in accordance with the individual client's needs and service plan.

5. Vehicles used for transporting clients shall be handicapped accessible and sufficiently equipped to safely meet the needs of the clients served.

E. Meals (residential facilities)

1. A facility shall ensure that a client is provided at least three meals, or their equivalent, daily and at regular times.

a. There shall not be more than 14 hours between the evening meal and breakfast of the following day, unless there is a nourishing snack served and/or available between the evening and morning meal.

b. Meal times shall be comparable to those in a normal home.

2. The facility shall make reasonable accommodations to:

a. meet religious and ethnic preferences;

b. meet the temporary need for meals delivered to the client's room;

c. meet clients' temporary schedule changes as well as clients' preferences (e.g. to skip a meal or prepare a simple late breakfast); and

d. make nutritious snacks, fruits and beverages available to clients when requested.

3. All food preparation areas (excluding areas in clients' units) shall be maintained in accordance with state and local sanitation and safe food handling standards.

4. Staff shall be available in the dining area to serve the food and to give individual assistance as needed.

5. Written reports of inspection by the OPH, Sanitarian Services shall be kept on file in the facility.

6. Specific times for serving meals shall be established and posted.

7. Meals shall be prepared and served in a way that assures that they are appetizing, attractive and nutritious and promotes socialization among the clients.

8. Food shall be palatable, sufficient in quantity and quality and properly prepared by methods that conserve the nutritive value, flavor and appearance.

9. The facility shall have kitchens and dining rooms that are appropriately and adequately furnished to serve the number of clients residing in the facility in a comfortable environment.

a. Dining room(s) may be sized to accommodate clients in either one or two settings.

b. The facility shall have a central kitchen or a warming kitchen.

c. The facility's kitchen(s) and dining room(s) shall meet applicable sanitation and safety standards and shall be well lighted and ventilated.

F. Menus (residential facilities)

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in a conspicuous place in the facility.

2. The facility shall furnish medically prescribed diets to clients in accordance with their service plan and shall be planned or approved by a licensed dietician.

3. Records of all menus as served shall be kept on file for at least 30 days.

4. All substitutions made on the master menu shall be recorded in writing.

G. Food Supplies

1. All food in the facility shall be labeled as safe for human consumption.

2. Grade "A" pasteurized fluid milk and fluid milk products shall be used or served. Dry milk products may not be used, except for cooking purposes.

H. Food Protection

1. If food is prepared in a central kitchen and delivered to separate facilities, provision shall be made for proper maintenance of food temperatures and a sanitary mode of transportation.

2. Facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below.

3. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below.

4. Thermometers shall be required for all refrigerators and freezers.

5. Food stored in the refrigerator shall be covered.

6. Pets are not allowed in food preparation and serving areas.

I. Ice and Drinking Water

1. The water supply shall be adequate, of a safe sanitary quality and from an approved source.

2. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

3. The ice scoop shall be maintained in a sanitary manner. The handle of the ice scoop shall at no time come in contact with the ice.

J. Recreation

1. The facility shall have a range of indoor and outdoor recreational and leisure opportunities to meet the needs and preferences of clients.

2. The facility shall provide and/or coordinate access to community-based activities.

3. There shall be a monthly posted list of recreational and leisure activities in the facility and the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

Subchapter F. Quality Enhancement Plan

§8781. Quality Enhancement

A. An ABI facility shall develop, implement and maintain a quality enhancement (QE) plan that:

1. ensures that the facility is in compliance with federal, state, and local laws;

2. meets the needs of the facility's clients;

3. is attaining the goals and objectives established by the facility;

4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual client outcomes and individual client satisfaction;

6. includes plans of action to correct identified issues that:

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan; and

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QE plan shall include:

1. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients of the facility receiving services, that include, but is not limited to:

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

2. a process to review and resolve individual client issues that are identified;

3. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

4. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients; and

5. a process of evaluation to identify or trigger further opportunities for improvement in identification of individual client care and service components.

C. The QE program shall hold bi-annual committee meetings to:

1. assess and choose which QE plan activities are necessary and set goals for the quarter;

2. evaluate the activities of the previous quarter; and

3. implement any changes that protect the clients from potential harm or injury.

D. The QE plan committee shall:

1. develop and implement the QE plan; and

2. report to the director any identified systemic problems.

E. The facility shall maintain documentation of the most recent 12 months of the QE plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

Subchapter G. Physical Environment

§8785. General Provisions

A. Interior Space

1. The facility shall be designed, constructed, equipped and maintained to meet the accessibility needs of the clients in accordance with applicable federal and state laws, rules and regulations for persons with disabilities.

2. Handrails and sufficient lighting shall be integrated into public areas as appropriate to assist clients in ambulation.

3. Sufficient lighting shall be provided for general lighting and reading in bedrooms and common areas.

4. Night lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

5. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened, intact and operable.

6. The facility shall be kept free of hazards.

7. The facility shall have sufficient and separate storage space for administration records, cleaning supplies (janitorial), food service (supplies), lawn maintenance (equipment) and locked areas for medications.

8. Poisonous and toxic materials shall be identified, and stored in a separate cabinet used for no other purpose.

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility. The facility shall replace or repair broken, worn or defective furnishings and equipment promptly.

10. The facility shall have an effective pest control program.

11. The facility shall have a system in place to control water temperature to prevent burns and ensure client safety.

12. The facility shall be maintained at a comfortable seasonal temperature (65 to 80 degrees Fahrenheit) in all indoor public and private areas.

13. The facility shall be furnished according to the activities offered. Furniture shall be clean, safe, operable, where applicable and appropriate for the functional program. Furniture shall be available to facilitate usage by the number of clients in the facility.

B. Exterior Space

1. A facility shall ensure that the grounds and any structure thereon shall be maintained in operating condition and free from any reasonably foreseeable hazard to health and safety.

a. Garbage and rubbish stored outside shall be secured securely in noncombustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be separate from outdoor recreational space.

c. Areas determined to be unsafe, including but not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced off or have natural barriers to protect clients.

d. Fences shall be in good repair and constructed in such a way as to provide safety and security.

2. A facility shall provide clients access to safe, suitable outdoor space designated for recreational use.

3. The parking lot shall not double as recreational space.

4. If a facility accepts clients that have dementia or other conditions that may cause them to leave or walk away from the home/facility, an enclosed area shall be provided adjacent to the home/facility so that the clients may go outside safely.

5. Signage. The facility's address or name shall be displayed so as to be easily visible from the street.

6. The facility shall ensure that exterior areas are well lit at night.

C. Common Space

1. A facility shall not share common living, or dining space with another facility licensed to care for individuals on a 24 hour basis.

2. The facility shall provide common areas to allow clients the opportunity for socialization.

3. Common areas for leisure shall be at least 60 square feet per licensed capacity.

4. Dining rooms and leisure areas shall be available for use by clients at appropriate times to provide periods of social and diversified individual and group activities.

5. Outpatient facilities and 24 hour facilities shall provide public restrooms of sufficient number and location to serve clients and visitors.

6. The facility's common areas shall be accessible and maintained to provide a clean, safe and attractive environment for the clients.

7. Space used for administration, sleeping or passage shall not be considered as dining or leisure space.

D. Laundry

1. The facility shall have provisions to provide laundry services that are adequate to handle the needs of the

clients, including those with bladder and/or bowel incontinence.

2. On-site laundry facilities, if provided, shall be located in a specifically designated area and there shall be adequate space for sorting, processing and storage of soiled material.

3. Laundry rooms shall not open directly into client common areas or into food service areas.

4. Domestic washers and dryers which are for the exclusive use of clients may be provided in client areas, provided they are installed in such a manner that they do not cause a sanitation problem, offensive odors or safety concerns.

5. Universal precautions shall be followed in all laundry areas. Hand cleaning facilities shall be available in or near any laundry area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8787. Residential Facilities

A. The ABI facility shall ensure that each single occupancy bedroom has a floor area of at least 100 net square feet, exclusive of bathrooms, closets or storage space and that each multiple occupancy bedroom has a floor area of at least 70 net square feet for each client. There shall be no more than two clients per bedroom. The facility shall strive to maintain a home-like environment.

B. A facility shall not use a room with a ceiling height of less than seven feet, six inches as a bedroom, unless, in a room with varying ceiling heights, the portions of the room where the ceiling is at least seven feet, six inches allow a usable floor space.

C. A facility shall not use as a bedroom any room which does not have a window opening to the outside.

D. Each client in the facility shall have his/her own bed. Cots, bunk beds or portable beds are prohibited.

E. A facility shall ensure that sheets, pillows and pillow cases, bedspreads and blankets are provided for each client as needed. Linens that are torn, worn or frayed shall not be utilized.

F. Each client shall be provided with individual space, in the bedroom, for personal possessions or clothing such as dressers, chest of drawers, etc.

G. Clients shall be allowed to decorate their own bedrooms with personal effects, such as pictures, etc.

H. Each bedroom shall have a closet which opens directly into the room and be of sufficient size to serve the occupants of the bedroom.

1. If the bedroom does not have a closet opening into the room, there shall be a moveable closet or armoire available in the bedroom.

2. If a moveable closet or armoire is used, this space shall not be counted in the net floor space.

I. There shall be adequate, gender segregated, toileting, bathing and hand washing facilities, in accordance with *LAC Title 51, Public Health—Sanitary Code*.

J. One bathroom shall serve no more than four beds and shall contain wash basins with hot and cold water, flush toilets and bath or shower facilities with running hot and cold water.

K. Each bathroom shall be located so that they open into a hallway, common area or directly into the bedroom. If the bathroom only opens directly into a bedroom, it shall be for the sole use of the occupants of that bedroom only.

L. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items. Tubs and showers shall have slip-proof surfaces.

M. A facility shall provide toilets, baths and showers which allow for individual privacy, unless clients require assistance for care.

N. A facility's bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the client's basic hygienic and grooming needs.

O. A facility's bathrooms shall be equipped to facilitate maximum self-help by clients. Grab bars, shower chairs, toilet extensions and other handicap aides are to be provided as needed in bathrooms.

P. Toilets, wash basins and other plumbing or sanitary areas in a facility shall continuously be maintained in operable condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8789. Community Living

A. General. Community Living Facilities shall provide a home or apartment setting, or efficiency/studio apartments providing a rehabilitative treatment environment. The community living facility shall be equipped in a manner to help ensure clients their privacy, dignity and independence while preparing them for community integration. There shall be no more than three bedrooms per apartment or six beds per home. Each shall strive to maintain a home-like environment and shall be furnished for living. Each home/apartment shall include at a minimum:

1. a food preparation area consisting of a sink with hot and cold running water, electrical outlets in compliance with applicable laws and regulations, mini refrigerator, cooking appliance, food storage cabinets and counter space;

2. a bathroom that is shared by no more than four individuals which includes a toilet, sink and shower or tub with hot and cold running water, shall be equipped with functional aides and shall be accessible to the individual(s) using it and electrical outlets shall be in compliance with applicable laws and regulations;

3. dining/sitting/bedroom area;

4. sufficient storage/closet space;

5. an operating emergency call system (wired or wireless) is required for those clients that live alone without 24 hour on-site supervision and shall be easily accessible to those clients that live alone, in the event of an emergency and shall register at a location that is monitored at all hours of the day and night;

6. a lockable front door that can be controlled by the client;

7. Heating, ventilation and air conditioning (HVAC) thermostats that can be individually controlled by the client, with a locking mechanism provided, if required to prevent harm to a client;

8. at least one operating telephone available 24 hours/day; and

9. the ABI facility shall ensure that any living situation that is selected by the client is:

a. accessible to and functional for the inhabitants of the living space, considering any handicapping condition or other disability of the clients;

b. free from any hazard to the health or safety of the clients;

c. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

d. accessible to transportation; and

e. accessible to any services as required by the client's plan of services or individual program, and in compliance with applicable health, safety and sanitation codes.

B. A client may reside in an efficiency/studio apartment that shall have a minimum of 250 net square feet of floor space, excluding bathrooms and closets.

C. Homes or apartments with separate bedrooms shall have a living area (living/dining/kitchenette) of at least 190 net square feet, excluding bedroom, bathroom and closets. Each separate bedroom shall have a minimum of 100 net square feet, excluding bathroom and closet or wardrobe space.

D. Homes or apartments with a bedroom designed for two individuals shall have a minimum of 200 net square feet excluding bathrooms and closet or wardrobe space. Clients sharing a two person bedroom shall agree, in writing, to this arrangement. No bedrooms shall accommodate more than two clients.

E. Bedrooms shall contain an outside window. A room where access is through a bathroom or another bedroom is prohibited for use as a client's bedroom.

F. There shall be at least 60 net square feet of common space for each home or apartment.

G. Bathrooms shall be located so that they open into a hallway, common area or directly into the bedroom.

1. If the bathroom only opens directly into a bedroom, it shall be for the sole use of the occupants of that bedroom only.

2. Non-skid surfacing or strips shall be installed in all showers and bathing areas. Grab bars shall be installed in all showers and bathing areas if determined to be necessary for the client(s) residing in this space.

3. Hot and cold water faucets shall be easily identifiable.

4. Bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

H. The facility shall have a written plan for providing support and supervision to the clients in supervised living situations. The plan shall ensure:

1. regular contact between the facility personnel and the client at a minimum of three times a week or as specified in the client's service plan; and

2. provisions for emergency access by clients to an appropriate facility staff member on a 24 hour basis.

I. A facility shall, through routine visits by staff to the home or apartment, determine and document that:

1. there is no reasonable cause for believing that the client's mode of life or living situation presents any risks to the client's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the client is receiving required medical care; and

4. the current plan of services provides appropriate and sufficient services to the client.

J. Staff may have and utilize pass keys to apartments or homes as may be necessary for services or emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

§8791. Outpatient Services

A. General. The ABI facility that elects to provide the outpatient level of care shall do so in a facility that meets the following space requirements:

1. At a minimum, one therapy room shall be provided within the treatment space. Use of this room for evaluations and private communication with client and/or family as well as therapy requiring privacy or seclusion shall be permitted.

2. A therapy room shall have a minimum clear floor area of 70 square feet.

3. Size requirements shall be based upon the types of services provided and the equipment used for therapeutic treatment. Sufficient space shall be provided to allow access to the equipment by the client and the therapist when in use.

4. At least one hand-washing station shall be provided within the treatment area.

5. Designated work space shall be provided for therapists and/or other staff.

6. There shall be a secure area for storage of client treatment records.

7. There shall be an administrative area available and designated for office equipment.

8. There shall be a separate toilet room for clients and staff/visitors.

9. The outpatient facility shall be in compliance with federal, state and local rules, laws and regulations applicable to persons with disabilities.

10. There shall be a waiting area for clients with sufficient seating for numbers of clients served.

B. Exterior Space. There shall be parking spaces sufficient to meet the numbers of clients served, with a covered space for drop off and pick up, maintained well-lit as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe and effective operation of adult brain injury facilities.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 28, 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: Adult Brain Injury Facilities Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that $11,988 (SGF) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase revenue collections to the Department by approximately $1,250 for FY 17-18, $1,250 for FY 18-19, and $1,250 for FY 19-20 as a result of the collection of annual fees from the licensing of adult brain injury facilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, in compliance with Act 245 of the 2005 Regular Session of the Louisiana Legislature, adopts provisions governing the licensing of adult brain injury (ABI) facilities (5 facilities). It is anticipated that implementation of this proposed rule will not have programmatic costs since these services are reimbursed through private pay or insurance payments, if covered; however, there will be economic costs to the ABI facilities of approximately $1,250 annually due to payment of annual licensing fees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1708#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Home and Community-Based Services Providers
Licensing Standards
(LAC 48:I.Chapters 50 and 51)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapters 50 and 51 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated a Notice of Intent which proposed to amend the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to further clarify and correct the formatting of these provisions to assure that these provisions were promulgated in a clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 42, Number 12). As a result of comments received, the department determined that it was necessary to abandon the Notice of Intent published in the December 20, 2016 edition of the *Louisiana Register*.

The department now proposes to promulgate a revised Notice of Intent in order to further clarify and correct the formatting of the provisions governing the licensing standards for HCBS providers to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 50. Home and Community-Based Services Providers Licensing Standards
Subchapter A. General Provisions
§5001. Introduction

A. Pursuant to R.S. 40:2120.2, the Department of Health (LDH) has established the minimum licensing standards for home and community-based services (HCBS) providers. These licensing provisions contain the core requirements for HCBS providers as well as the module-specific requirements, depending upon the services rendered by the HCBS provider. These regulations are separate and apart from Medicaid standards of participation or any other requirements established by the Medicaid Program for reimbursement purposes.

B. - C.8. ...

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. - 1.a. ...

b. provides sitter services;

c. ...

d. provides home modifications/environmental accessibility adaptations and/or assessments; or

e. provides personal emergency response system/assistive technology/devices;

D.2. - 4. ...

5. any person who is employed as part of a departmentally authorized self-direction program; and

5.a. ...

6. any agency that provides residential orientation and adjustment programs for blind persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5003. Definitions

* * *

Activities of Daily Living (ADLs)—the functions or basic self-care tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting.

* * *

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the tasks for the individual, hands-on assistance with the performance of the tasks, or supervision and prompting to allow the individual to self-perform such tasks.

Branch—an office from which in-home services such as personal care attendant (PCA), supervised independent living (SIL) and respite are provided within the same LDH region served by the parent agency. The branch office shares administration and supervision.

Cessation of Business—provider is non-operational and/or has stopped offering or providing services to the community.

C*hange in Health Status*—a significant decline in the client's health that will not normally resolve itself without further assessment and/or intervention by staff or licensed medical practitioners.

* * *

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

LDH Region—the geographic administrative regions designated by the Department of Health.

* * *

Employed—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position.

* * *

Geographic Location—the LDH region in which the primary business location of the provider agency operates from.

Health Standards Section (HSS)—the licensing and certification section of the Department of Health.

* * *

Individual Service Plan—a service plan, person centered and developed for each client, that is based on a comprehensive assessment which identifies the individual's strengths and needs in order to establish goals and objectives so that outcomes to service delivery can be measured.

NOTE: For those clients receiving Medicaid reimbursed home and community-based services, a comprehensive plan of care prepared in accordance with policies and procedures established by Medicaid or by an LDH program office for reimbursement purposes may be substituted or used for the individual service plan.

Individuals with Disabilities Education Act (IDEA)—the law ensuring services to children with disabilities through the U.S. Department of Education which may include vocational training.

Instrumental Activities of Daily Living (IADLs)—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and assistance attending medical appointments if needed.

Line of Credit—a credit arrangement with a federally insured, licensed lending institution which is established to assure that the provider has available funds as needed to continue the operations of the agency and the provision of services to clients. The line of credit shall be issued to the licensed entity and shall be specific to the geographic location shown on the license. For purposes of HCBS licensure, the line of credit shall not be a loan, credit card or a bank balance.

Mental Abuse—includes, but is not limited to abuse that is facilitated or caused by taking or using photographs or recordings in any manner that would demean or humiliate a client using any type of equipment(e.g., cameras, smart phones, and other electronic devices) and /or keeping or distributing them through multimedia messages or on social media sites.

1. Mental abuse may occur through either verbal or nonverbal conduct which causes or has the potential to cause the client to experience humiliation, intimidation, fear, shame, agitation, or degradation, regardless of whether the client provided consent and regardless of the client's cognitive status. This may include, but is not limited to:

a. photographs and recordings of clients that contain nudity;

b. sexual and intimate relations;

c. bathing, showering or toileting;

d. providing perineal care such as after an incontinence episode;

e. agitating a client to solicit a response;

f. derogatory statements directed to the resident;

g. showing a body part without the client's face, whether it is the chest, limbs or back;

h. labeling a client's pictures and/or providing comments in a demeaning manner;

i. directing a client to use inappropriate language; and /or

j. showing a client in a compromised position.

* * *

Non-Operational—the HCBS provider location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

* * *

Respite Care—an intermittent service designed to provide temporary relief to unpaid, informal caregivers of the elderly and/or persons with disabilities.

Satellite—an alternate location from which center-based respite or adult day care services are provided within the same LDH region served by the parent agency. The satellite office shares administration and supervision.

Service Area—the LDH administrative region in which the provider's geographic business location is located and for which the license is issued.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:64 (January 2012), amended LR 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5005. Licensure Requirements

A. All HCBS providers shall be licensed by the Department of Health. It shall be unlawful to operate as a home and community-based service provider without a license issued by the department. LDH is the only licensing authority for HCBS providers in Louisiana.

B. An HCBS license shall:

1. - 3. ...

4. enable the provider to render delineated home and community-based services within a LDH region;

5. - 8. ...

C. An HCBS provider shall provide only those home and community-based services or modules:

1. ...

2. only to clients residing in the provider's designated service area, LDH Region, or at the provider's licensed location.

D. An HCBS provider may apply for a waiver from the Health Standards Section (HSS) to provide services to a client residing outside of the provider's designated service area or LDH Region only under the following conditions.

1. A waiver may be granted by the department if there is no other HCBS provider in the client's service area or LDH Region that is licensed and that has the capacity to provide the required services to the client, or for other good cause shown by the HCBS provider and client.

2. The provider shall submit a written waiver request to HSS prior to providing services to the client residing outside of the designated service area or LDH Region.

D.3. - E. ...

1. Each HCBS provider shall have a business location which shall not be located in an occupied personal residence and shall be in accordance with the provisions of §5027 and §5031 of this Chapter.

a. The business location shall be part of the licensed location of the HCBS provider and shall be in the LDH Region for which the license is issued.

b. The business location shall have at least one employee, either contracted or staff, on duty at the business location during the days and hours of operation as stated on the licensing application and business location signage.

c. ...

2. The ADC shall be open at least five hours on days of operation. Center-based respite facilities shall have the capacity to provide 24 hour services.

3. There shall be a sufficient number of trained direct care staff and professional services staff, either employed or contracted, available to be assigned to provide services to persons in their homes as per the plan of care. ADC services and center-based respite services should be sufficiently staffed during the facility's hours of operation.

E.4. - G. ...

H. If applicable, each HCBS provider shall obtain facility need review approval prior to initial licensing.

1. If an existing licensed HCBS provider who is not currently providing PCA, respite, MIHC or SIL services wants to begin providing these services, the provider shall be required to apply for facility need review approval for each of the requested services.

H.2. - J.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:65 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5007. Initial Licensure Application Process

A. ...

B. The initial licensing application packet shall include:

1. - 2. ...

3. a copy of the on-site inspection report for the adult day care module and the center-based respite module with approval for occupancy by the Office of the State Fire Marshal;

4. ...

5. a copy of a statewide criminal background check, conducted by the Louisiana State Police, or its authorized agent, including sex offender registry status, on all owners and administrators;

a. each owner shall be at least aged 18 years;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000 that is:

i. current at the time of submission of the application for licensure; and

ii. issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance in the amount of at least $300,000 that is current and in effect at the time of license application; and

c. worker's compensation insurance that is current and in effect at the time of license application;

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5007.B.6.a-c and any certificates of insurance

issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

7. a completed disclosure of ownership form which includes any controlling interest or ownership in any other licensed agencies;

8. - 10. ...

C. A person convicted of one or more of the following felonies is prohibited from being the owner or the administrator of an HCBS provider agency. For purposes of these provisions, the licensing application shall be rejected by the department for any felony conviction relating to:

C.1. - D.1. ...

2. If an initial licensing application is closed, an applicant who is still interested in becoming an HCBS provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process, subject to any facility need review approval.

E. Applicants for HCBS licensure shall be required to either attend a mandatory HCBS provider training class or complete the LDH online provider training when a completed initial licensing application packet has been received by the department.

F. Upon completion of the mandatory HCBS provider training class and written notification of satisfactory class completion from the department or upon submission of attestation of satisfactory completion of the LDH online provider training, an HCBS applicant shall be required to admit one client and contact the HSS field office to schedule an initial licensing survey.

1. Prior to scheduling the initial survey, applicants shall be:

a. - c. ...

2. If the applicant has not admitted one client or contacted the HSS field office to schedule an initial survey within 30 days of receipt of the written notification from the department, the application will be closed. If an applicant is still interested in becoming an HCBS provider, a new initial licensing packet with a new initial licensing fee shall be submitted to the department to start the initial licensing process, subject to any facility need review approval.

G. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the HCBS provider will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5009. Initial Licensing Surveys

A. - D.2. ...

E. The initial licensing survey of an HCBS provider shall be an announced survey. Follow-up surveys to the initial licensing survey are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5011. Types of Licenses and Expiration Dates

A. - A.3. ...

B. The department, in its sole discretion, may issue a provisional license to an existing licensed HCBS provider for a period not to exceed six months. The department will consider the following circumstances in making a determination to issue a provisional license:

1. compliance history of the provider to include areas of deficiencies cited;

2. the nature and severity of any substantiated complaints;

a. Repealed.

3. - 5. ...

C. When the department issues a provisional license to an existing licensed HCBS provider, the provider shall submit a plan of correction to LDH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the HCBS provider prior to the expiration of the provisional license.

C.1. - D.3. ...

E. The renewal of a license does not in any manner affect any sanction, civil fine or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:67 January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5012. Change in License by Addition or Deletion of a Service Module or Modules from the HCBS License

A. Addition of a Service Module or Modules to existing HCBS License

1. An HCBS provider with an active HCBS license, current and in good standing, may submit a request to add a service module or modules. The following information shall be submitted for consideration of this request:

a. a completed HCBS license application which has "Add a Service" clearly marked;

b. a facility need review approval letter, if seeking to add the PCA, SIL, MIHC, or respite service modules; and

c. applicable fee for issuance of the new HCBS license.

B. Deletion of a Service Module or Modules to existing HCBS License

1. An HCBS provider with an active HCBS license may submit a request to delete a service module or modules. The following information shall be submitted for consideration of this request:

a. a completed HCBS license application which has "Delete a Service" clearly marked; and

b. applicable fee for issuance of the new HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5013. Changes in Licensee Information, Location, or Key Personnel

A. - C.2.d. ...

D. If the HCBS provider changes its name without a change in ownership, the HCBS provider shall report such change to the department in writing five days prior to the change. The change in the HCBS provider name requires a change in the HCBS provider license. Payment of the applicable fee is required to re-issue the license.

1. - 2. Repealed.

E. Any request for a duplicate license shall be accompanied by the applicable fee.

F. If the HCBS provider changes the physical address of its geographic location without a change in ownership, the HCBS provider shall report such change to LDH in writing at least five days prior to the change. Because the license of an HCBS provider is valid only for the geographic location of that provider, and is not transferrable or assignable, the provider shall submit a new licensing application.

1. An on-site survey may be required prior to the issuance of the new license.

2. The change in the HCBS provider's physical address results in a new license renewal anniversary date and an additional full licensing fee shall be paid.

G. - G.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5014. Change of Ownership of an HCBS Provider

A. The license of an HCBS provider is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the HCBS provider shall not be submitted at time of the annual renewal of the provider's license.

C. Before an initial license can be issued to the new owner, all licensing application requirements shall be:

1. completed by the applicant in accordance with the provisions of §5007; and

2. submitted to the department for approval.

D. The applicant shall submit the following licensing requirements to the department:

1. the completed HCBS license application and non-refundable fee;

2. disclosure of ownership documentation;

3. proof of financial viability to include:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000 that is current at the time of the application for licensure and is issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance of at least $300,000 that is current and in effect at the time of application for licensure; and

c. worker's compensation insurance that is current and in effect at the time of application for licensure.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5014.D.3.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. If center-based services such as adult day care or center-based respite are also being acquired in the change of ownership, the prospective new owner shall be required to submit approvals for occupancy from OPH and the State Fire Marshal. Such approvals shall be issued under the name of the center as given by the new owner.

E. An HCBS provider may not undergo a CHOW if any of the following conditions exist:

1. licensure is provisional, under revocation or denial of renewal;

2. is in a settlement agreement with the department;

3. has been excluded from participation from the Medicaid program;

4. has ceased to operate and does not meet operational requirements to hold a license as defined by §5031 Business Location and in accordance with §5026 Cessation of Business.

F. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

G. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5015. Renewal of License

A. The HCBS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. - 2. ...

3. a current State Fire Marshal report for the adult day care module and the center-based respite module;

4. - 6. ...

7. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000 that is current at the time of the application for license renewal and is issued to/in the name of the applicant at the geographic location shown on the application for license renewal;

b. general and professional liability insurance of at least $300,000 that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license; and

c. worker's compensation insurance that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5015.A.7.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement

requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

B. ...

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the HCBS license.

NOTE: Upon expiration of the current license, the HCBS provider shall cease providing services in accordance with R.S. 40:2120.6 and shall meet the requirements of §5026 Cessation of Business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5016. Deemed Status through Accreditation

A. - A.1. ...

2. all services provided under the HCBS license shall be accredited; and

A.3. - B. ...

C. The following may cause the state agency to perform a full licensing survey on an accredited HCBS provider:

1. any substantiated complaints in the preceding 12-month period;

2. addition of service module or modules;

3. ...

4. issuance of a provisional license in the preceding 12-month period;

5. serious violations of licensing standards or professional standards of practice that were cited in the preceding 12-month period that resulted in or had the potential for negative outcomes to clients served; or

6. allegations of inappropriate client treatment or services to a client resulting in death or serious injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5017. Survey Activities

A. - B. ...

C. The department shall require an acceptable plan of correction from a provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey. The acceptable plan of correction shall be submitted within the prescribed timeframe to the department for approval.

D. ...

E. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil fines;

2. directed plans of correction;

3. license revocation; and/or

4. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the provider agency, and to all relevant administrative and/or clinical files during any survey as necessary or required to conduct the survey and/or investigation; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5019. Statement of Deficiencies

A. - C.1. ...

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement deficiencies.

4. ...

NOTE: Informal reconsiderations of the results of a complaint investigation are conducted as desk reviews.

5. ...

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for initial license denials, revocations and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

a. Repealed.

7. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5021. Denial of Initial Licensure, Revocation of License, Denial of License Renewal

A. - B.1. ...

2. The department may deny an initial license for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

3. If the department denies an initial license, the applicant for an HCBS provider license shall discharge the client(s) receiving services.

C. ...

D. Revocation of License or Denial of License Renewal. An HCBS provider license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. - 4. ...

5. failure to protect a client from a harmful act of an employee, either contracted or staff, or by another client including, but not limited to:

5.a. - 7.e. ...

8. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;

9. - 15. ...

16. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

17. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department; or

18. failure to maintain current, and in effect, required insurance policies in accordance with the provisions of this Chapter.

E. In the event an HCBS provider license is revoked, renewal is denied or the license is surrendered in lieu of an adverse action, any owner, board member, director or administrator, and any other person named on the license application of such HCBS provider is prohibited from owning, managing, directing or operating another HCBS agency for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5023. Notice and Appeal of Initial License Denial, License Revocation and Denial of License Renewal

A. Notice of an initial license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The HCBS provider has a right to an administrative reconsideration of the initial license denial, license revocation or denial of license renewal. There is no right to an administrative reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the administrative reconsideration within 15 calendar days of the receipt of the notice of the initial license denial, license revocation or denial of license renewal. The request for administrative reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section. The request for administrative reconsideration shall be considered timely if received by the Health Standards Section within 15 days from the provider's receipt of the notice.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by HSS, an administrative reconsideration shall be scheduled and the provider will receive written notification of the date of the administrative reconsideration.

4. The provider shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the initial license denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the administrative reconsideration.

C. The HCBS provider has a right to an administrative appeal of the initial license denial, license revocation or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration.

a. The HCBS provider may forego its rights to an administrative reconsideration, and if so, shall request the administrative appeal within 30 calendar days of the receipt of the written notice of the initial license denial, revocation or denial of license renewal.

2. ...

3. If a timely request for an administrative appeal is received by the Division of Administrative Law, or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the provider pose an imminent or immediate threat to the health, welfare or safety of a client, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the provider will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the initial license denial, license revocation or denial of license renewal shall not be a basis for an administrative appeal.

D. ...

E. If a timely administrative appeal has been filed by the provider on an initial license denial, denial of license renewal or license revocation, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the initial license denial, denial of license renewal or license revocation, the provider's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the denial of license renewal or license revocation, the provider shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final agency decision, the provider shall notify HSS, in writing, of the secure and confidential location where the client records will be stored and the name and contact information of the person(s) responsible for the client records.

F. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new HCBS provider, or the issuance of a provisional license to an existing HCBS provider. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of initial licensure, denial of license renewal or license revocation.

G. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration

and the right to an administrative appeal, solely as to the validity of the deficiencies.

1. - 2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt of the written notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 calendar days of receipt of the written notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

5. - 5.a. ...

6. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired, or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

a. ...

b. If the final agency decision is to uphold the deficiencies thereby affirming the expiration of the provisional license, the provider shall ensure an orderly discharge and transition of any and all clients receiving services in accordance with the provisions of this Chapter.

i. Within 10 calendar days of the final agency decision, the provider shall notify HSS in writing of the secure and confidential location where the client records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:70 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5024. Inactivation of License due to a Declared Disaster or Emergency

A. An HCBS provider licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the HCBS provider has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed HCBS provider intends to resume operation as an HCBS provider in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another provider; and

e. provides a list of each client and where that client is discharged or transferred to;

2. the licensed HCBS provider resumes operating as a HCBS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed HCBS provider continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed HCBS provider continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a HCBS provider license, the department shall issue a notice of inactivation of license to the HCBS provider.

C. Upon completion of repairs, renovations, rebuilding or replacement, an HCBS provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The HCBS provider shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The provider resumes operating as an HCBS provider in the same service area within one year.

D. Upon receiving a completed written request to reinstate an HCBS provider license, the department shall conduct a licensing survey. If the HCBS provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the adult day care and center-based respite provider at the time of the request to inactivate the license.

E. No change of ownership in the HCBS provider shall occur until such HCBS provider has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an HCBS provider.

F. The provisions of this Section shall not apply to an HCBS provider which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the HCBS provider license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

§5025. Inactivation of License due to a Non-Declared Disaster or Emergency

A. A licensed HCBS in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed HCBS shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the HCBS has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed HCBS intends to resume operation as an HCBS provider in the same service area;

c. the licensed HCBS attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed HCBS's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

e. Repealed.

2. the licensed HCBS continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the licensed HCBS continues to submit required documentation and information to the department, including but not limited to cost reports.

4. Repealed.

B. Upon receiving a completed written request to temporarily inactivate a HCBS license, the department shall issue a notice of inactivation of license to the HCBS.

C. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and the OPH as required.

C.1. - C.2. Repealed.

D. The licensed HCBS shall resume operating as an HCBS in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the facility requires an extension of this timeframe due to circumstances beyond the facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show facility's active efforts to complete construction or repairs and the reasons for request for extension of facility's inactive license. Any approval for extension is at the sole discretion of the department.

1. Repealed.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an HCBS which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the HCBS shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an HCBS license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership in the HCBS shall occur until such HCBS has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an HCBS.

H. The provisions of this Subsection shall not apply to an HCBS which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5026. Cessation of Business

A. Except as provided in §5024 and §5025 of these licensing regulations, a license shall be immediately null and void if an HCBS provider becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the HCBS provider ceased offering or providing services to the community and/or is considered non-operational in accordance with §5005.E.1.b.

C. Upon the cessation of business, the HCBS provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The HCBS provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the HCBS provider shall:

1. give 30 days' advance written notice to:

a. each client or client's legal representative, if applicable;

b. each client's physician;

c. HSS;

d. OCDD;

e. OAAS;

f. support coordination agency for waiver participants;

g. state contractor for state plan LT-PCS services.

2. provide for a safe and orderly discharge and transition of all of the HCBS provider's clients.

F. In addition to the advance notice, the provider shall submit a written plan for the disposition of client services related records for approval by the department. The plan shall include the following:

1. The effective date of the closure.

2. Provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's client services related records;

3. The name and contact information for the appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction.

4. Public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If an HCBS provider fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning an HCBS for a period of two years.

H. Once any HCBS provider has ceased doing business, the provider shall not provide services until the provider has obtained a new initial HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter B. Administration and Organization

§5027. Governing Body

A. - A.3. ...

B. The governing body of an HCBS provider shall:

1. - 8. ...

9. ensure statewide criminal background checks on all unlicensed persons providing direct care and services to clients in accordance with R.S. 40:1203.2 or other applicable state law upon hire;

NOTE: Upon request of the employer with approval of the governing body, each applicant for employment may be fingerprinted in accordance with applicable state law to be used to obtain the criminal history record.

10. ensure that the provider does not hire unlicensed persons who have a conviction that bars employment in accordance with R.S. 40:1203.3 or other applicable state law;

a. the provider shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

11. ensure that direct support staff comply with R.S. 40:1203.2 or other applicable state law.

NOTE: It is not acceptable for a provider to have a client, family member or legal representative sign a statement that they acknowledge the direct support worker has a conviction that bars employment but they still choose to have that individual as the worker. The provider is expected to be in compliance with statutory requirements at all times.

C. An HCBS provider shall maintain an administrative file that includes:

1. a list of members and officers of the governing body, along with their addresses and terms of membership;

2. minutes of formal meetings and by-laws of the governing body, if applicable;

3. a copy of the current license issued by HSS;

4. an organizational chart of the provider which clearly delineates the line of authority;

5. all leases, contracts and purchases-of-service agreements to which the provider is a party;

6. insurance policies;

7. annual budgets and audit reports; and

8. a master list of all the community resources used by the provider.

9. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5029. Policy and Procedures

A. The HCBS provider shall develop, implement and comply with provider-specific written policies and procedures related to compliance with this Chapter, including, but not limited to policies and procedures that:

1. - 2. ...

3. provide for the protection of clients' rights; and

4. promote the highest practicable social, physical and mental well-being of clients;

B. The HCBS provider shall have written policies and procedures approved by the owner or governing body, which shall be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

4. personnel;

5. client rights;

6. grievance procedures;

7. client funds;

8. emergency preparedness;

9. abuse, neglect, exploitation and extortion;

10. incidents and accidents, including medical emergencies;

11. universal precautions;

12. documentation;

13. admission and discharge procedures; and

14. safety of the client while being transported by an agency employee, either contracted or directly employed, to include a process for evaluation of the employee's driver's license status inquiry report which may prohibit an employee from transporting clients.

C. The HCBS provider shall develop, implement and comply with written personnel policies that include the following:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members, that includes but is not limited to:

a. standards of conduct;

b. standards of attire to include having identification as an employee of the provider accessible when providing services to clients; and

c. standards of safety to include requirements for ensuring safe transportation of clients by employees, contracted or staff, who provide transportation;

2. written job descriptions for each staff position, including volunteers;

3. policies that shall, at a minimum, be consistent with Office of Public Health guidelines for services provided.

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees, either contracted or directly employed, to report any and all incidents of abuse or mistreatment or misappropriation of client funds, whether that abuse or mistreatment or misappropriation is done by another staff member, a family member, a client or any other person;

6. a written policy to prevent discrimination; and

7. a written policy to assure that there is a final disposition of all charges that appear on the staff person's or contracted employee's criminal background check.

8. a written policy to address prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restricted use of social media an include, at a minimum ensuring confidentiality of client information and preservation of client dignity and respect, and protection of client privacy and personal and property rights.

D. The HCBS provider shall have written policies and procedures for client behavior management which:

1. prohibit:

a. corporeal punishment;

b. restraints of any kind;

c. psychological and verbal abuse;

d. seclusion;

e. forced exercise;

f. any cruelty to, or punishment of, a client; and

g. any act by a provider which denies:

i. food;

ii. drink;

iii. visits with family, friends or significant others; or

iv. use of restroom facilities;

NOTE: §5029.D.1.g.i-iv is not inclusive of medically prescribed procedures.

2. ensure that non-intrusive positive approaches to address the meaning/origins of behaviors are used prior to the development of a restrictive plan; and

3. cover any behavioral emergency and provide documentation of the event in an incident report format.

E. An HCBS provider shall comply with all federal state and local laws, rules and regulations in the development and implementation of its policies and procedures.

E.1. - E.13. Repealed.

F. An HCBS provider shall ensure that all home and community-based waiver services are delivered in settings that are physically accessible to the client when the setting is controlled by the HCBS provider.

F.1. - I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORY NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:73 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5031. Business Location

A. All HCBS providers shall have a business location in the LDH Region for which the license is issued. The business location shall be a part of the physical geographic licensed location and shall be where the provider:

1. ...

2. maintains and stores the provider's personnel records;

3. maintains and stores the provider's client service records;

4. holds itself out to the public as being a location for receipt of client referrals; and

5. after initial licensure, consistently provides services to at least two clients.

EXCEPTION: Adult Day Care shall have 10 or more clients pursuant to R.S. 40:2120.2(4)(e).

B. The business location shall have:

1. a separate entrance and exit from any other entity, business or trade;

2. signage that is easily viewable indicating the provider's legal or trade name, address and days and hours of business operation as stated in the provider's license application.

a. Any planned deviation of the provider's days and hours of operation shall be reported to the Health Standards Section within five business days.

b. Any unplanned deviation of provider's days and hours of operation shall be reported to the Health Standards Section within two business days.

C. The HCBS provider shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.

1. The HCBS provider may share common areas with another business or entity. Common areas include foyers, kitchens, conference rooms, hallways, stairs, elevators or escalators when used to provide access to the provider's separate entrance.

a. Repealed.

2. Records or other confidential information shall not be stored in areas deemed to be common areas.

C.3. - C.7. Repealed.

D. The business location shall:

1. be commercial office space or, if located in a residential area, be zoned for appropriate commercial use and shall be used solely for the operation of the business;

a. the business location shall not be located in an occupied personal residence;

2. have approval for occupancy from the Office of the State Fire Marshal and the Office of Public Health if located at the same address as an adult day care center or center-based respite;

3. have a published telephone number which is available and accessible 24 hours a day, seven days a week, including holidays;

4. have a business fax number that is operational 24 hours a day, seven days a week;

a. - f. Repealed.

5. have internet access and a working e-mail address;

a. the e-mail address shall be provided to the department as well as any changes to the e-mail address within five working days to assure that the department has current contact information;

b. the e-mail address shall be monitored by the provider on an ongoing basis to receive communication from the department.

6. have space for storage of client records either electronically or in paper form or both in an area that is secure, safe from hazards and does not breach confidentiality of protected health information.

7. - 12. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORY NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:74 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5032. Branch Offices and Satellites of HCBS Providers

A. HCBS providers with branch offices or satellite locations shall meet the following:

1. No branch office or satellite location may be opened without prior written approval from HSS. In order for a branch office or satellite location to be approved, the parent agency shall have maintained a full licensure for the previous twelve month period.

a. The number of any new branch or satellite locations for any provider within a geographic location may be limited at the discretion of HSS.

2. The department may consider the following in making a determination whether to approve a branch office or a satellite location:

a. compliance history of the provider to include the areas of non-compliance of the deficiencies cited within the last 12 months;

b. the nature and severity of any substantiated complaints within the last 12 months;

c. if the parent agency currently has a provisional license;

d. if the parent agency currently is in a settlement agreement with the department;

e. if the parent agency has previously been excluded from participation from the Medicaid program;

f. if the parent agency is currently under license revocation or denial of license renewal;

g. if the parent agency is currently undergoing a change of ownership; and

h. if any adverse action has been taken against the license of other agencies operated by the owner of the parent agency within the previous two year period.

3. The branch office or satellite location shall be held out to the public as a branch, division, or satellite of the parent agency so that the public will be aware of the identity of the agency operating the branch or satellite.

a. Reference to the name of the parent agency shall be contained in any written documents, signs or other promotional materials relating to the branch or satellite.

4. Original personnel files shall not be maintained or stored at the branch office or satellite location.

5. A branch office or a satellite location is subject to survey, including complaint surveys, by the department at any time to determine compliance with minimum licensing standards.

6. A branch office or a satellite location shall:

a. serve as part of the geographic service area approved for the parent agency;

b. retain an original or a duplicate copy of all clinical records for its clients for a 12 month period at the branch or satellite location.

NOTE: If satellite or branch records are not maintained at the parent agency, such shall be made available as requested by the state surveyor without delaying the survey process;

c. maintain a copy of the agency's policies and procedures manual on-site for staff usage;

d. post and maintain regular office hours in accordance with §5031.B; and

e. staff the branch office or satellite location during regular office hours.

7. Each branch office or satellite location shall:

a. fall under the license of the parent agency and be located in the same LDH Region as the parent agency;

b. be assessed the required fee, assessed at the time the license application is made and once a year thereafter for renewal of the branch or satellite license;

NOTE: This fee is non-refundable and is in addition to any other fees that may be assessed in accordance with applicable laws, rules, regulations and standards.

8. Existing branch office or satellite location approvals will be renewed at the time of the parent agency's license renewal, if the parent agency meets the requirements for licensure.

B. Branch Offices of HCBS Providers

1. An HCBS provider who currently provides in-home services such as PCA, respite, MIHC or SIL services may apply to the department for approval to operate a branch office to provide those same services.

a. HCBS providers are limited in the same LDH Region as the parent agency at the discretion of HSS.

C. Satellite Locations of HCBS Providers

1. An HCBS provider who currently provides ADC services or provides center-based respite services may apply to the department for approval to operate a satellite location to provide additional ADC services or center-based respite services at that satellite location.

a. HCBS providers are limited in the same LDH Region as the parent agency at the discretion of the HSS.

NOTE: The HSS may with good cause consider exceptions to the limit on numbers of satellite and/or branch locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

Subchapter C. Admission, Transfer and Discharge Criteria

§5033. Admissions

A. An HCBS provider shall have written admissions policies and criteria which shall include the following:

1. - 3. ...

4. legal status of the clients served;

5. - 7. ...

B. The written description of admissions policies and criteria shall be made available to the client and his/her legal representative.

C. An HCBS provider shall ensure that the client, the legal representative or other persons, where appropriate, are provided an opportunity to participate in the admission process.

1. Consents as necessary for care and services shall be obtained from the client or legal representative, if applicable, prior to admission.

2. Where such involvement of the client, the legal representative, where appropriate, or other persons as selected by the client is not possible or not desirable, the reasons for their exclusion shall be recorded.

D. When refusing admission, a provider shall provide a written statement as to the reason for the refusal. This shall be provided to designated representatives of the department or to a client upon request.

E. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5035. Voluntary Transfers and Discharges

A. A client has the right to choose a provider. This right includes the right to be discharged from his current provider, be transferred to another provider and to discontinue all services.

B. Upon notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services or moves from the geographic region serviced by the provider, the HCBS provider shall have the responsibility of planning for a client's voluntary transfer or discharge.

C. The transfer or discharge responsibilities of the HCBS provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are applicable, in order to facilitate an orderly transfer or discharge, unless the client or authorized representative declines such a meeting;

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

E. The provider shall not coerce the client to stay with the provider agency or interfere in any way with the client's decision to transfer. Failure to cooperate with the client's decision to transfer to another provider may result in further investigation and action as deemed necessary by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5037. Involuntary Transfers and Discharges

A. ...

1. The client's health has improved sufficiently so that the client no longer requires the services rendered by the provider.

2. ...

3. The client has failed to pay any past due amounts for services received from the provider for which he/she is liable within 15 days after receipt of written notice from the provider.

4. ...

5. The client or family refuses to cooperate or interferes with attaining the care objectives of the HCBS provider.

A.6. - C. ...

1. The written notice shall be sent to the client or to the authorized representative via certified mail, return receipt requested.

2. ...

3. When the client has failed to pay any outstanding amounts for services for which he/she has received from the provider and is liable, written notice may be given immediately. Payment is due within 15 days of receipt of written notice from the provider that an amount is due and owing.

4. - 5. ...

D. The written notice of involuntary transfer or discharge shall include:

1. - 4. ...

5. names of provider personnel available to assist the client or authorized representative and family in decision making and transfer arrangements;

D.6. - F.2.b. ...

3. If a client is given 15 days written notice and files a timely appeal of an involuntary transfer/discharge based on the client's failure to pay any outstanding amounts for services within the allotted time, the provider may discharge or transfer the client.

G. The transfer or discharge responsibilities of the HCBS provider shall include:

1. conducting a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate an orderly transfer or discharge;

G.2. - H. ...

1. The provider shall not be required to provide services if the discharge is due to the client moving out of the provider's geographic region. An HCBS provider is prohibited from providing services outside of its geographic region without the department's approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Service Delivery

§5039. General Provisions

A. ...

B. Assessment of Needs

1. Prior to any service being rendered, an HCBS provider shall conduct a thorough assessment of the client's needs to identify where supports and services are needed and whether the provider has the capacity to provide such needed care and services.

2. The provider shall not admit a client for whom they do not have the capacity to safely provide required services.

3. The assessment shall identify potential risks to the client and shall address, at a minimum the following areas:

a. life safety, including, but not limited to:

i. the ability of the client to access emergency services;

ii. the ability of the client to access transportation in order to obtain necessary goods and services (i.e. medical appointments, medications and groceries); and

iii. the ability of the client to evacuate the home in an emergent event, such as a fire in the home, or in the event of a declared disaster.

b. living environment including, but not limited to:

i. presence of physical hazards (i.e. objects that could cause falls, hot water temperatures that could contribute to scalds);

ii. presence of functional utilities; and

iii. presence of environmental hazards (i.e. chemicals, foods not kept at acceptable temperatures);

c. health conditions including, but not limited to:

i. diagnoses;

ii. medications, including methods of administration; and

iii. current services and treatment regimen;

d. functional capacity including but not limited to:

i. activities of daily living;

ii. instrumental activities of daily living including money management, if applicable;

iii. communication skills;

iv. social skills; and

v. psychosocial skills including behavioral needs; and

e. client financial health including, but not limited to:

i. the client's independent ability to manage their own finances;

ii. the client's dependence on a family member or other legal representative to manage the client's finances; and

iii. the client's need for the provider's assistance to manage the client's finances to assure that bills such as rent and utilities are paid timely.

4. The assessment shall be conducted prior to admission and at least annually thereafter. The assessment shall be conducted more often as the client's needs change.

5. An HCBS comprehensive assessment performed for a client in accordance with policies, procedures, and timeframes established by Medicaid or by a LDH program office for reimbursement purposes can substitute for the assessment required under these provisions.

6. The provider shall be familiar with the health condition of clients served. If the client has an observable significant change in physical or mental status, the provider shall ensure that the change is immediately reported so that the client receives needed medical attention by a licensed medical practitioner in a timely manner.

C. - C.4. Repealed.

D. - D.2.d. ...

3. An HCBS plan of care or agreement to provide services signed by the provider or client in accordance with policies, procedures, and timelines established by Medicaid or by a LDH program office for reimbursement purposes can substitute for the agreement required under these provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5041. Individual Service Plan

A. Upon admission and prior to the initiation of care and services, an individual service plan shall be person centered and developed for each client, based upon a comprehensive assessment.

B. - E. ...

F. The ISP shall include the following components:

1. - 3. ...

4. target dates for completion or re-evaluation of the stated goals;

5. identification of all persons responsible for implementing or coordinating implementation of the plan; and

6. documentation of all setting options for services, including non-disability specific settings, which the provider offered to the client, including residential settings.

G. ...

H. A comprehensive plan of care prepared in accordance with policies, procedures, and timelines established by Medicaid or by a LDH program office for reimbursement purposes may be substituted or used for the individual service plan.

I. Each client's ISP shall be reviewed, revised, updated and amended no less than annually, and more often as necessary, or as designated by the department, to reflect changes in the client's needs, services and personal outcomes.

J. Coordination of Services

1. Client care goals and interventions shall be coordinated in conjunction with other providers rendering care and services and/or caregivers to ensure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5043. Contract Services

A. ...

B. When services are provided through contract, a written contract shall be established. The contract shall include all of the following items:

1. - 4. ...

5. a statement that the contracted personnel shall meet the same qualifications and training requirements as an employee of an HCBS agency who holds the same position;

B.5.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5045. Transportation

A. ...

B. Any vehicle owned by the agency or its employees, either contracted or staff, used to transport clients shall be:

1. ...

2. maintained in an operational condition;

3. operated at an internal temperature that does not compromise the health, safety or needs of the client.

C. The provider shall have proof of liability insurance coverage in accordance with state law for any vehicle owned by the agency or its employees, either contracted or staff that are used to transport clients. The personal liability insurance of a provider's employee, either contracted or staff, shall not be substituted for the required vehicular insurance coverage.

D. Any staff member of the provider or other person acting on behalf of the provider, who is operating a vehicle owned by the agency or its employees, either contracted or staff, for the purpose of transporting clients shall be properly licensed to operate that class of vehicle in accordance with state law.

E. The provider shall have documentation of successful completion of a safe driving course for each staff or contract employee who transports clients. If the staff or contract employee does not transport clients, such shall be clearly documented in their personnel record.

1. Employees, either contracted or staff, who are required to transport clients as part of their assigned duties shall successfully complete a safe driving course within 90 days of hiring, every three years thereafter, and within 90 days of the provider's discovery of any moving violation.

F. Upon hire, and annually thereafter, the provider shall at a minimum, obtain a driver's license status inquiry report available on-line from the State Office of Motor Vehicles, for each employee, either contracted or directly employed, who is required to transport clients as part of their assigned duties.

G. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the transporting vehicle.

H. - I.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. Client Protections

§5049. Client Rights

A. Unless adjudicated by a court of competent jurisdiction, clients served by HCBS providers shall have the same rights, benefits and privileges guaranteed by the constitution and the laws of the United States and Louisiana, including but not limited to the following:

1. human dignity;
2. impartial access to treatment regardless of:
   a. race;
   b. religion;
   c. sex;
   d. ethnicity;
   e. age; or
   f. disability;
3. cultural access as evidenced by:
   a. interpretive services;
   b. translated materials;
   c. the use of native language when possible; and
   d. staff trained in cultural awareness;
4. have sign language interpretation, allow for the use of service animals and/or mechanical aids and devices that assist those persons in achieving maximum service benefits when the person has special needs;
5. privacy;
6. confidentiality;
7. access his/her records upon the client's written consent for release of information;
8. a complete explanation of the nature of services and procedures to be received, including:
   a. risks;
   b. benefits; and
   c. available alternative services;
9. actively participate in services, including:
   a. assessment/reassessment;
   b. service plan development; and
   c. discharge;
10. refuse specific services or participate in any activity that is against their will and for which they have not given consent;
11. obtain copies of the provider's complaint or grievance procedures;
12. file a complaint or grievance without retribution, retaliation or discharge;
13. be informed of the financial aspect of services;
14. be informed of the need for parental or guardian consent for treatment of services, if appropriate;
15. personally manage financial affairs, unless legally determined otherwise;
16. give informed written consent prior to being involved in research projects;
17. refuse to participate in any research project without compromising access to services;
18. be free from mental, emotional and physical abuse, coercion and neglect;
19. be free from all restraints;
20. receive services that are delivered in a professional manner and are respectful of the client's wishes concerning their home environment;
21. receive services in the least intrusive manner appropriate to their needs;
22. contact any advocacy resources as needed, especially during grievance procedures;
23. discontinue services with one provider and freely choose the services of another provider;
24. freedom and support to control their own schedules and activities;
25. access to food at any time; and
26. have visitors of their choosing at any time.

B. An HCBS provider shall assist in obtaining an independent advocate:

1. if the client's rights or desires may be in jeopardy;
2. if the client is in conflict with the provider; or
3. upon any request of the client.

C. The client has the right to select an independent advocate, which may be:

1. a legal assistance corporation;
2. a state advocacy and protection agency;
3. a trusted church or family member; or
   a. - d. Repealed.
4. any other competent key person not affiliated in any way with the licensed provider.

5. - 23. Repealed.

D. The client, client's family and legal guardian, if one is known, shall be informed of their rights, both verbally and in writing in a language they are able to understand.

D.1. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5051. Grievances

A. - C. ...

1. The agency shall provide the grievance procedure in writing to the client at admission and grievance forms shall be made readily available as needed thereafter.

D. ...

E. The administrator of the agency, or his/her designee, shall issue a written report and/or decision within five business days of receipt of the grievance to the:

1. - 3. ...

4. the person initiating the grievance.

F. The agency shall maintain documentation pursuant to §5051.A. - E.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Provider Responsibilities

§5053. General Provisions

A. ...

B. Additional staff shall be employed or contracted as necessary to ensure proper care of clients and adequate provision of services.

C. ...

D. All client calls to the provider's published telephone number shall be returned within one business day. Each client shall be informed of the provider's published telephone number, in writing, as well as through any other method of communication most readily understood by the client according to the following schedule:

1. - 3. ...

E. HCBS providers shall establish policies and procedures relative to the reporting of abuse, neglect, extortion, or exploitation of clients pursuant to the provisions of R.S. 15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws. Providers shall ensure that staff complies with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5055. Core Staffing Requirements

A. - B.1.a. ...

b. have a minimum of six years of verifiable experience working in a health or social service related business, plus a minimum of four additional years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities; or

c. is a registered nurse licensed and in good standing with the Louisiana State Board of Nursing and have at least two years' experience in providing care to the elderly or to adults with disabilities.

2. Any person convicted of a felony as defined in these provisions is prohibited from serving as the administrator of an HCBS provider agency.

C. Administrator Responsibilities. The administrator shall:

1. - 4. ...

5. employ, either by contract or staff, qualified individuals and ensure adequate staff education and evaluations;

C.6. - D.1.g. ...

2. Professional staff employed or contracted by the provider shall hold a current, valid professional license issued by the appropriate licensing board.

3. The provider shall maintain proof of annual verification of current professional licensure of all licensed professional staff.

4. All professional services furnished or provided shall be furnished or provided in accordance with professional standards of practice, according to the scope of practice requirements for each licensed discipline.

E. Direct Care Staff

1. The provider shall have sufficient numbers of trained direct care staff to safeguard the health, safety and welfare of clients.

2. - 3. ...

F. Direct Care Staff Qualifications

1. HCBS providers shall ensure that all non-licensed direct care staff, either contracted or employed, meet the minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179-40:2179.1 or a subsequently amended statute and any rules published pursuant to those statutes.

2. All direct care staff shall have the ability to read and write at a level that allows them to understand the client's services plan, document services provided, and carry out directions competently as assigned.

a. The training shall address needed areas of improvement, as determined by the worker's performance reviews, and may address the special needs of clients.

3. All direct care staff shall be trained in recognizing and responding to medical emergencies of clients.

G. Direct Care Staff Responsibilities. The direct care staff shall:

1. - 8. ...

9. be responsible for accurate daily documentation of services provided and status of clients to be reported on progress notes and/or progress reports.

H. Direct Care Staff Training

1. The provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a minimum of 16 hours of training upon hire and before providing direct care and services to clients. Such training shall include the following topics and shall be documented, maintained and readily available in the agency's records:

a. the provider's policies and procedures;

b. emergency and safety procedures;

c. recognizing and responding to medical emergencies including:

i. knowing when to make an immediate call to 911; and

ii. knowing how to support the client while waiting for the emergency personnel to arrive such as maintaining an open airway for breathing, checking for the presence of a pulse, or stopping bleeding, when needed;

d. client's rights;

e. detecting and reporting suspected abuse and neglect, utilizing the department's approved training curriculum;

f. reporting critical incidents;

g. universal precautions;

h. documentation;

i. implementing service plans;

j. confidentiality;

k. detecting signs of illness or impairment that warrant medical or nursing intervention;

l. basic skills required to meet the health needs and problems of the client;

m. the management of aggressive behavior, including acceptable and prohibited responses; and

n. scald prevention training.

2. The provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a basic first aid course within 45 days of hire.

3. Training received by a direct care staff worker from previous employment with a HCBS agency is transferrable between HCBS agencies when the hiring HCBS agency:

a. obtains from the previous employer proof of the employee's successful documented completion of any required training; and

b. obtains documented evidence of the employee's continued competency of any required training received during employment with the previous HCBS provider.

I. Competency Evaluation

1. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff, either contracted or employed, is able to demonstrate competencies in the training areas in §5055.H.

2. Written or oral examinations shall be provided.

3. The examination shall reflect the content and emphasis of the training curriculum components in §5055.H and shall be developed in accordance with accepted educational principles.

4. The provider shall ensure that those direct care staff with limited literacy skills receive substitute examination sufficient to determine written reading comprehension and competency to perform duties assigned.

J. Continuing Education

1. Annually thereafter, the provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a minimum of eight hours of training in order to ensure continuing competence. Orientation and normal supervision shall not be considered for meeting this requirement. This training shall address the special needs of clients and may address areas of employee weakness as determined by the direct care staff person's performance reviews.

J.1.a. - J.5.c. Repealed.

K. Volunteers/Student Interns

1. A provider utilizing volunteers or student interns on any regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

a. be directly supervised by a paid staff member;

b. be oriented and trained in the philosophy, policy and procedures of the provider, confidentiality requirements and the needs of clients;

c. have documentation of reference checks in accordance with facility policy;

d. - m. Repealed.

2. Volunteer/student interns shall be a supplement to staff employed by the provider but shall not provide direct care services to clients.

L. Direct Care Staff Supervisor. The HCBS provider shall designate and assign a direct care staff supervisor to monitor and supervise the direct care staff.

1. The supervisor shall be selected based upon the needs of the client outlined in the ISP.

2. A provider may have more than one direct care staff supervisor.

3. - 4. Repealed.

M. Direct Care Supervision

1. A direct care staff supervisor shall make an in-person supervisory visit of each direct care staff within 60 days of being hired or contracted and at least annually thereafter. Supervisory visits shall occur more frequently:

a. if dictated by the ISP;

b. as needed to address worker performance;

c. to address a client's change in status; or

d. to assure services are provided in accordance with the ISP.

2. The supervisory visit shall be unannounced and utilized to evaluate:

a. the direct care staff person's ability to perform assigned duties;

b. whether services are being provided in accordance with the ISP; and

c. if goals are being met.

3. Documentation of supervision shall include:

a. the worker/client relationship;

b. services provided;

c. observations of the worker performing assigned duties;

d. instructions and comments given to the worker during the onsite visit; and

e. client satisfaction with service delivery.

4. An annual performance evaluation for each direct care staff person shall be documented in his/her personnel record.

5. In addition to the in-person supervisory visits conducted with direct care staff, the provider shall visit the home of each client on a quarterly basis to determine whether the individual:

a. service plan is adequate;

b. continues to need the services; and

c. service plan needs revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended LR 40:1007 (May 2014), LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5057. Client Records

A. Client records shall be accurately documented and maintained in the HCBS provider's office. Current progress notes shall be maintained at the home. The provider shall have a written record for each client which shall include:

A.1. - 6. ...

7. an accurate financial record of each client's personal funds which includes a written record of all of the financial transactions involving the personal funds of the client deposited with the provider;

a. the client (or his legal representative) shall be afforded access to such record; and

b. the financial records shall be available through quarterly statements;

c. Repealed.

8. - 11.a. ...

b. a description of any serious or life threatening medical condition(s); and

c. a description of any medical treatment or medication necessary for the treatment of any medical condition;

d. Repealed.

12. a copy of any signed and dated advance directive that has been provided to the HCBS provider, or any physician orders, signed and dated, relating to end of life care and services.

B. HCBS providers shall maintain client records for a period of no less than six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:82 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5059. Client Funds and Assets

A. The HCBS provider shall not require that the provider be the manager of the client's funds and shall develop and implement written policies and procedures to protect client funds. Clients shall have the right to control their personal resources.

B. In the case of a representative payee, all social security rules and regulations shall be adhered to. The provider shall obtain written authorization from the client and/or his/her legal or responsible representative if they will be designated as the representative payee of the client's social security payment.

C. If the provider manages a client's personal funds, the provider shall furnish a written statement which includes the client's rights regarding personal funds, a list of the services offered and charges, if any, to the client and/or his/her legal or responsible representative.

D. - E.6. ...

F. A client with a personal fund account managed by the HCBS provider may sign an account agreement acknowledging that any funds deposited into the personal account, by the client or on his/her behalf, are jointly owned by the client and his legal representative or next of kin. These funds do not include Social Security funds that are restricted by Social Security Administration (SSA) guidelines. The account agreement shall state that:

1. - 4. ...

5. the joint owner of a client's account shall not be an employee, either contracted or on staff, of the provider.

G. - H. ...

1. Upon the death of a client, the provider shall act accordingly upon any burial policies of the client.

2. ...

3. If a valid account agreement has been executed by the client, the provider shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H.4. - I. ...

J. Burial Policies. Upon discharge of a client, the provider shall release any and all burial policies to the client or his/her legal or responsible representative.

K. Life Insurance Policies. An HCBS provider and/or its employee(s), either contracted or staff, shall not purchase a life insurance policy on an HCBS client and designate the provider and/or its employee(s) as the beneficiary of the policy.

L. The provisions of this section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:82 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5061. Quality Enhancement Plan

A. An HCBS provider shall develop, implement and maintain a quality enhancement (QE) plan that:

1. ensures that the provider is in compliance with federal, state, and local laws;

2. meets the needs of the provider's clients;

3. is attaining the goals and objectives established by the provider;

4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual client outcomes and individual client satisfaction;

6. includes plans of action to correct identified issues that:

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan;

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QE plan shall include:

1. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients of the HCBS provider receiving services, that includes, but is not limited to:

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

2. a process to review and resolve individual client issues that are identified;

3. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

4. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients; and

5. a process of evaluation to identify or trigger further opportunities for improvement in identification of individual client care and service components.

C. The QE program shall hold bi-annual committee meetings to:

1. assess and choose which QE plan activities are necessary and set goals for the quarter;

2. evaluate the activities of the previous quarter; and

3. implement any changes that protect the clients from potential harm or injury.

D. The QE plan committee shall:

1. develop and implement the QE plan; and

2. report to the administrator any identified systemic problems.

E. The HCBS provider shall maintain documentation of the most recent 12 months of the QE plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:83 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5063. Emergency Preparedness

A. - A.9. ...

B. Providers shall ensure that each client has a documented individual plan in preparation for, and response to, emergencies and disasters and shall assist clients in identifying the specific resources available through family, friends, the neighborhood and the community.

C. Continuity of Operations. The provider shall have written disaster and emergency preparedness plans which are based on a risk assessment using an all hazards approach for both internal and external occurrences, developed and approved by the governing body and updated annually;

1. to maintain continuity of the provider's operations in preparation for, during and after an emergency or disaster;

2. to manage the consequences of all disasters or emergencies that disrupt the provider's ability to render care and treatment, or threaten the lives or safety of the clients; and

3. that are prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP) and include provisions for persons with disabilities.

D. The HCBS provider shall develop and implement policies and procedures based on the emergency plan, risk assessment, and communication plan which shall be reviewed and updated at least annually to maintain continuity of the agency's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the provider's ability to render care and treatment, or threatens the lives or safety of the clients.

1. At any time that the HCBS provider has an interruption in services or a change in the licensed location due to an emergency situation, the provider shall notify HSS no later than the next business day.

2. - 6. Repealed.

E. The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. The plan shall include, at a minimum:

1. provisions for the delivery of essential services to each client as identified in the individualized emergency plan for each client, whether the client is in a shelter or other location;

2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;

3. provisions for back-up staff;

4. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the assistance or knowledge of the provider. This notification shall include:

a. the date and approximate time that the provider or client is evacuating;

b. the place or location to which the client(s) is evacuating which includes the name, address and telephone numbers; and

c. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;

5. provisions for ensuring that sufficient supplies, medications, clothing and a copy of the individual service plan are sent with the client, if the client is evacuated; and

6. the procedure or methods that will be used to ensure that identification accompanies the individual. The identification shall include the following information:

a. current and active diagnoses;

b. medication(s), including dosages and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin, including contact information.

F. - H. ...

I. All agency employees, either contracted or staff, shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

J. - J.5. ...

K. - K.7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:83 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Adult Day Care Module

§5071. General Provisions

A. ...

B. An ADC program shall provide services for 10 or more functionally impaired adults who are not related to the owner or operator of the HCBS provider.

1. For the purposes of this Section, "*functionally impaired adult*" shall be defined as individuals 17 years of age or older who are physically, mentally or socially impaired to a degree that requires supervision.

C. The following two programs shall be provided under the ADC Module:

1. Day Habilitation Services

a. Day habilitation services include assistance with acquisition, retention or improvement in self-help, socialization, and adaptive skills that take place in a non-residential setting separate from the recipient's private residence or other residential living arrangement. Day habilitation services provide activities and environments designed to foster the acquisition of skills, appropriate behavior, greater independence and personal choice.

i. Day Habilitation services are provided in a variety of community settings, (i.e. local recreation department, garden clubs, libraries, etc.) other than the recipient's residence and are not limited to a fixed-site facility.

b. Services are furnished to a client who is 17 years of age or older and has a developmental disability, or who is a functionally impaired adult, on a regularly scheduled basis during normal daytime working hours for one or more days per week, or as specified in the recipient's service plan.

c. Day habilitation services focus on enabling the recipient to attain or maintain his or her maximum functional level, and shall be coordinated with any physical, occupational, or speech therapies in the service plan. These services may also serve to reinforce skills or lessons taught in other settings.

2. Prevocational Services

a. Prevocational services prepare a recipient for paid employment or volunteer opportunities. Services include teaching such concepts as compliance, attendance, task completion, problem solving and safety. Services are not job-task oriented, but are aimed at a generalized result. These services are reflected in the recipient's service plan and are directed to habilitative (e.g. attention span, motor skills) rather than explicit employment objectives.

b. Individuals receiving prevocational services shall have an employment related goal as part of their individual service plan.

c. This service is not available to clients eligible to receive services under a program funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA).

D. When applying for the ADC module under the HCBS provider license, the provider shall indicate whether it is providing day habilitation, prevocational/employment-related services or both.

D.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5073. Operational Requirements for ADC Facilities

A. The client/staff ratio in an ADC facility shall be a minimum of one staff person per eight clients, unless additional staff coverage is needed to meet the needs of the client, as specified in the service plan.

B. - C. ...

1. If meals are prepared by the facility or contracted from an outside source, the following conditions shall be met:

a. menus shall be written in advance and shall provide for a variety of nutritional foods from which a client may choose;

C.1.b. - C.3. ...

4. Dining areas shall be adequately equipped with tables, chairs, eating utensils and dishes designed to meet the functional needs of clients. Clients shall have choice of where and with whom to eat within the ADC facility.

C.5. - D.2. ...

3. Sufficient supervision/training shall be provided where potentially harmful materials such as cleaning solvents and/or detergents are used.

4. - 5. ...

6. Fire drills shall be performed at least once a quarter. Documentation of performance shall be maintained.

E. - E.8. ...

a. The ratio of bathrooms to number of clients shall meet the requirements in accordance with applicable state and/or federal laws, rules and regulations.

b. Individuals shall be ensured privacy when using bathroom facilities.

c. - 11. ...

12. The building in which the ADC is located shall meet the requirements of the OSFM in accordance with applicable state and federal laws, rules and regulations.

F. - F.1. ...

a. The provider shall maintain full financial records of clients' earnings if the facility pays the client.

b. ...

c. The provider shall have a current U.S. Department of Labor Sub-Minimum Wage Certificate if the provider pays sub-minimum wage.

2. ...

3. Clients shall be directly supervised when operating any type of power driven equipment such as lawn mowers or electrical saws, unless:

a. - b. ...

c. sufficient training is given to the recipient and the training is documented.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter H. Family Support Module

§5075. General Provisions

A. ...

B. Services covered by the family support module may include:

1. special equipment;
2. limited adaptive housing;
3. medical expenses and medications;
4. nutritional consultation and regime;
5. related transportation;
6. special clothing;
7. special therapies;
8. respite care;
9. dental care; and
10. family training and therapy.

C. - C.10. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:86 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter I. Personal Care Attendant Module

§5079. General Provisions

A. ...

B. Personal care attendant services may include:

1. - 1.i. ...

j. any non-complex medical task which can be delegated;

2. assistance and/or training in the performance of tasks in accordance with the plan of care and related to:

2.a. - 3. ...

4. support and assistance in developing relationships with neighbors and others in the community; and

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

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

38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter J. Respite Care

§5083. General Provisions

A. ...

B. Respite care may be provided as an in-home or center-based service. The services may be provided in the client's home or in a licensed respite center.

C. Providers of in-home respite care services must comply with:

1. all HCBS providers core licensing requirements;

2. PCA module specific requirements; and

3. the respite care services module in-home requirements.

D. Providers of center-based respite care services shall comply with:

1. ...

2. respite care services module in-home requirements; and

3. the respite care services module center-based requirements.

E. When applying for the respite care service module under the HCBS provider license, the provider shall indicate whether it is providing in-home respite care, center-based respite care or both.

E.1. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5085. Operational Requirements for In-Home Respite Care

A. - A.2. ...

B. In-home respite care service providers shall have sufficient administrative, support, professional and direct care staff to meet the needs of clients at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5087. Operational Requirements for Center-Based Respite Care

A. - A.2. ...

a. The provider shall ensure that the client has an adequate supply of clothing, needed personal care supplies, and medications, if needed.

A.3. - B.1.a. ...

2. Arrangements for medical isolation shall be available. The provider shall inform the family to move the client to isolation when medically determined as necessary.

3. Medication shall be prescribed only by a licensed health care practitioner in accordance with the individual's professional licensing laws.

C. ...

1. Planning, preparation and serving of foods shall be in accordance with the nutritional, social, emotional and medical needs of the clients. The menu shall include a minimum of three varied, nutritious and palatable meals a day plus nourishing snacks.

2. All milk and milk products used for drinking shall be Grade A and pasteurized.

3. There shall be no more than 14 hours between the last meal or snack offered on one day and the first meal offered of the following day.

C.4. - C.5. Repealed.

D. - F.1. ....

2. If it has been determined either medically or legally that the best interests of the client necessitate restrictions on communications or visits, these restrictions shall be documented in the service plan.

F.3. - G.1. ...

2. All bedrooms shall be on or above street grade level and be outside rooms. Bedrooms shall accommodate no more than four residents. Bedrooms shall provide at least 60 square feet per person in multiple sleeping rooms and not less than 80 square feet in single rooms.

3. ...

4. There shall be separate and gender segregated sleeping rooms for adults and for adolescents. When possible, there should be individual sleeping rooms for clients whose behavior would be disruptive to other clients.

5. Appropriate furniture shall be provided including but not limited to, a chest of drawers, a table or desk, an individual closet with clothes racks and shelves accessible to the residents.

G.6. - H.7. ...

I. There shall be a designated space for dining. Dining room tables and chairs shall be adjusted in height to suit the ages and physical needs of the clients.

J. - J.2. ...

K. ...

1. The facility shall comply with all applicable federal, state and local building codes, fire and safety laws, ordinances and regulations.

2. Secure railings shall be provided for flights of more than four steps and for all porches more than four feet from the ground.

3. Where clients under age two are in care, secure safety gates shall be provided at the head and foot of each flight of stairs accessible to these clients.

4. Before swimming pools are made available for client use, written documentation shall be received by LDH-OPH confirming that the pool meets the requirements of the Virginia Graeme Baker Pool and Spa Safety Act of 2007 or, in lieu of, written documentation confirming that the pool meets the requirements of ANSI/APSP-7 (2006 Edition) which is entitled the "American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading pools, Spas, Hot Tubs and Catch Basins."

a. ...

b. An individual, 18 years of age or older, shall be on duty when clients are swimming in ponds, lakes or pools where a lifeguard is not on duty. The facility shall have staff sufficient in number certified in water safety by the American Red Cross or other qualified certifying agency to meet the needs of the clients served.

c. The provider shall have written plans and procedures for water safety.

d. The provider shall have available water safety devices sufficient in number for clients served and staff trained in the proper usage of such devices.

5. Storage closets or chests containing medicine or poisons shall be kept securely locked.

6. Garden tools, knives and other potentially dangerous instruments shall be inaccessible to clients without supervision.

K.7. - L.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter K. Substitute Family Care Module

§5089. General Provisions

A. - A.2. ...

B. Substitute family care services are delivered by a principal caregiver, in the caregiver's home, under the oversight and management of a licensed SFC provider.

1. The SFC caregiver is responsible for providing the client with a supportive family atmosphere in which the availability, quality and continuity of services are appropriate to the age, capabilities, health conditions and special needs of the individual.

2. The licensed SFC provider shall not be allowed to serve as the SFC caregiver.

C. Potential clients of the SFC program shall meet the following criteria:

1. have a developmental disability as defined in R.S. 28:451.1-455.2 of the Louisiana Developmental Disability Law or its successor statute;

2. be at least 18 years of age;

a. Repealed.

3. have an assessment and service plan pursuant to the requirements of the HCBS provider licensing rule.

a. The assessment and service plan shall assure that the individual's health, safety and welfare needs can be met in the SFC setting.

4. - 4.a. Repealed

D. SFC Caregiver Qualifications

1. An SFC caregiver shall be certified by the SFC provider before any clients are served. In order to be certified, the SFC caregiver applicant shall:

a. undergo a professional home study conducted by the provider;

b. participate in all required orientations, trainings, monitoring and corrective actions required by the SFC provider; and

c. meet all of the caregiver specific requirements of this section.

2. The personal qualifications required for certification include:

a. Residency. The caregiver shall reside in the state of Louisiana and shall provide SFC services in the caregiver's home. The caregiver's home shall be located in the state of Louisiana and in the region in which the SFC provider is licensed.

b. Criminal Record and Background Clearance. Members of the SFC caregiver's household shall not have any felony convictions. Other persons approved to provide care or supervision of the SFC client for the SFC caregiver shall not have any felony convictions.

i. Prior to certification, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall undergo a statewide criminal record background check conducted by the Louisiana State Police, or its authorized agent.

ii. Annually thereafter, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall have criminal record background checks.

c. Age. The SFC principal caregiver shall be at least 21 years of age. Maximum age of the SFC principal caregiver shall be relevant only as it affects his/her ability to provide for the SFC client as determined by the SFC provider through the home assessment. The record shall contain proof of age.

3. The SFC caregiver may be either single or married. Evidence of marital status shall be filed in the SFC provider's records and shall include a copy of legal documents adequate to verify marital status.

4. The SFC caregiver is not prohibited from employment outside the home or from conducting a business in the home provided that:

a. the SFC home shall not be licensed as another healthcare provider;

b. such employment or business activities do not interfere with the care of the client;

c. such employment or business activities do not interfere with the responsibilities of the SFC caregiver to the client;

d. a pre-approved, written plan for supervision of the participant which identifies adequate supervision for the participant is in place; and

e. the plan for supervision is signed by both the SFC caregiver and the administrator or designee of the SFC provider.

E. The SFC caregiver shall not be certified as a foster care parent(s) for the Department of Child and Family Services (DCFS) while serving as a caregiver for a licensed SFC provider.

1. The SFC provider, administrator or designee shall request confirmation from DCFS that the SFC caregiver applicant is not presently participating as a foster care parent and document this communication in the SFC provider's case record.

2. - 3.a. Repealed.

F. In addition to the discharge criteria in the core requirements, the client shall be discharged from the SFC program upon the client meeting any of the following criteria:

1. incarceration or placement under the jurisdiction of penal authorities or courts for more than 30 days;

a. - c. Repealed.

2. lives in or changes his/her residence to another region in Louisiana or another state;

a. - c. Repealed.

3. admission to an acute care hospital, rehabilitation hospital, intermediate care facility for persons with intellectual disabilities (ICF/ID) or nursing facility with the intent to stay longer than 90 consecutive days;

4. the client and/or his legally responsible party(s) fails to cooperate in the development or continuation of the service planning process or service delivery;

a. - e. Repealed.

5. a determination is made that the client's health and safety cannot be assured in the SFC setting; or

6. failure to participate in SFC services for 30 consecutive days for any reason other than admission to an acute care hospital, rehabilitation hospital, ICF/ID facility or nursing facility.

G. - H.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:89 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5090. Operational Requirements for Substitute Family Care Providers

A. - A.1.a. ...

2. Within the first 90 days following the client's move into the home, the SFC provider shall provide and document training to the SFC caregiver(s) inclusive of the following:

a. - d. ...

3. Annually, the SFC provider shall provide the following training to the SFC caregiver:

a. six hours of training related to the client's needs and interests including the client's specific priorities and preferences; and

b. six hours of training on issues of health and safety such as the identification and reporting of allegations of abuse, neglect or exploitation and misappropriation of client's funds.

A.4. - B. ...

1. The SFC provider shall conduct no less than monthly face to face reviews of each SFC caregiver and/or household in order to:

B.1.a. - C. ...

1. 24-hour care and supervision, including provisions for:

a. a flexible routine that includes client's choices or preferences;

C.1.b. - D. ...

1. SFC Providers shall ensure that the SFC caregiver complies with the following standards for client records that are maintained in the SFC's home.

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:90 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5091. Operational Requirements for Substitute Family Care Caregivers

A. The SFC caregiver(s) shall provide environments that meet the needs of the clients.

B. The SFC caregiver's home shall be located within a 25 mile radius of community facilities, resources and services such as medical care, schools, recreation facilities, churches and other community facilities.

C. The home of the SFC family shall not be used as lodging for any person(s) who is not subject to the prior approval certification process of the SFC family. The SFC family shall notify the administrator, or designee of the SFC provider, of any person(s) allowed to reside in the home following the initial certification.

1. ...

2. All persons residing with the SFC family, including temporary or on a non-permanent basis, shall undergo statewide criminal record background checks conducted by the Louisiana State Police, or its authorized agent.

C.3. - D. ...

E. The SFC caregiver shall have a stable income sufficient to meet routine expenses, independent of the payments for their substitute family care services, as demonstrated by a reasonable comparison between income and expenses conducted by the administrator or designee of the SFC provider upon initiation of services and as necessary thereafter.

F. The SFC caregiver shall have a plan that outlines in detail the supports to be provided. This plan shall be approved and updated as required and as necessary by the SFC provider. The SFC caregiver shall allow only SFC approved persons to provide care or supervision to the SFC client.

1. ...

a. identification of any person(s) who will supervise the participant on a routine basis which shall be prior approved by the administrator or designee of the SFC agency provider;

F.1.b. - H. ...

1. The home of the SFC caregiver shall be safe and in good repair, comparable to other family homes in the neighborhood. The home and its exterior shall be free from materials and objects which constitute a potential for danger to the individual(s) who reside in the home.

2. SFC homes featuring either a swimming or wading pool shall ensure that safety precautions prevent unsupervised accessibility to clients.

3. - 3.f. ...

g. household first aid supplies to treat minor injuries;

h. plumbing in functional working order and availability of a method to maintain safe water temperatures for bathing; and

H.3.i. - H.5. ...

a. There shall be a bedroom for each client with at least 80 square feet exclusive of closets, vestibules and bathrooms and equipped with a door, that locks from the inside for privacy unless contraindicated by any condition of the client. Clients shall be afforded privacy within their sleeping units.

H.5.a.i. - I.2.c. ...

d. documentation of a driver's license status inquiry report on each family member who will be transporting the client.

3. If the client(s) are authorized to operate the family vehicle, liability insurance coverage specific to the client(s) use shall be maintained at all times in accordance with state law.

J. - J.1.k. ...

i. Repealed.

J.1.l. - J.3.c. ...

K. - K.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:91 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter L. Supervised Independent Living Module

§5093. General Provisions

A. - B. ...

C. Clients receiving SIL services shall be at least 18 years of age. An SIL living situation is created when an SIL client utilizes an apartment, house or other single living unit as his place of residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5094. Operational Requirements for the Supervised Independent Living Module

A. A provider shall ensure that the living situation is freely selected by the client from among non-disability specific settings. An SIL residence may be owned or leased by either the provider or the client. At the expense of the owner or lessee, a provider shall ensure that the living situation shall be:

1. - 4. ...

5. a living situation that affords the client's individual privacy, including the ability to lock entrance doors;

6. - 9. ...

10. equipped with an efficiency bedroom space or a separate private bedroom with a door that locks from the inside for privacy, if not contraindicated by a condition of the client residing in the room:

10.a. - 15.g. ...

16. equipped with functional smoke detectors and a fire extinguisher.

B. A provider shall ensure that any client placed in the living situation has:

1. ...

2. access to transportation;

3. access to any services in the client's approved ISP; and

4. privacy within their living and sleeping units.

C. The department shall have the right to inspect the SIL and client's living situation as deemed necessary.

D. - E. ...

1. For purposes of this Section, a supervisor is defined as a person, so designated by the provider agency, due to experience and expertise relating to needs of clients with developmental disabilities.

2. A supervisor shall have a minimum of two documented contacts per week with the client. The weekly contacts may be made by telephone, adaptive communication technology or other alternative means of communication. There shall be documentation of what was discussed with the client and any outcomes.

a. The supervisor shall have a minimum of one face-to-face contact per month with the client in the client's home. The frequency of the face-to-face contacts shall be based on the client's needs. There shall be documentation of what was discussed with the client and any outcomes.

2.b. - 3....

F. In addition to the core licensing requirements, the SIL provider shall:

1. - 2. ...

3. assure that bill payment is completed timely in accordance with the individual service plan, if applicable; and

F.4. - G.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5095. Supervised Independent Living Shared Living Conversion Process

A. ...

B. Only an existing ICF/ID group or community home with up to 8 beds may voluntarily and permanently close its home and its related licensed, Medicaid certified and enrolled ICF/ID beds to convert to new community-based waiver opportunities (slots) for up to six persons in shared living model or in combination with other ROW residential options. These shared living models will be located in the community.

1. ...

C. The LDH Office for Citizens with Developmental Disabilities (OCDD) shall approve all individuals who may be admitted to live in and to receive services in an SIL Shared Living Conversion model.

D. The ICF/ID provider who wishes to convert an ICF/ID to an SIL via the shared living conversion model shall be approved by OCDD and shall be licensed by HSS prior to providing services in this setting, and prior to accepting any ROW participant or applicant for residential or any other developmental disability service(s).

E. An ICF/ID provider who elects to convert to an SIL via the shared living conversion model may convert to one or more conversion models, provided that the total number of SIL shared living conversion slots; beds shall not exceed the number of Medicaid facility need review bed approvals of the ICFs/ID so converted.

1. The conversion of an ICFs/ID to an SIL via the shared living conversion process may be granted only for the number of beds specified in the applicant's SIL shared living conversion model application to OCDD.

2. ...

3. Any remaining Medicaid facility need review bed approvals associated with an ICF/ID that is being converted cannot be sold or transferred and are automatically considered terminated.

F. An ICF/ID provider who elects to convert to an SIL via the shared living conversion process shall obtain the approval of all of the residents of the home(s) (or the responsible parties for these residents) regarding the conversion of the ICF/ID prior to beginning the process of conversion.

G. Application Process

1. The ICF/ID owner or governing board must sign a conversion agreement with OCDD regarding the specific beds to be converted and submit a plan for the conversion of these beds into ROW shared living or other ROW residential

waiver opportunities, along with a copy of the corresponding and current ICF/ID license(s) issued by HSS.

a. This conversion plan shall be approved and signed by OCDD and the owner or signatory of the governing board prior to the submittal of a HCBS provider, SIL module licensing application to LDH-HSS.

2. A licensed and certified ICF/ID provider who elects to convert an ICF/ID to an SIL via the shared living conversion process shall submit a licensing application for a HCBS provider license, SIL Module. The ICF/ID applicant seeking to convert shall submit the following information with his licensing application:

a. - b. ...

i. that the license to operate an ICF/ID will be voluntarily surrendered upon successfully completing an initial licensing survey and becoming licensed as an SIL via the shared living conversion process; and

ii. that the ICF/ID Medicaid facility need review bed approvals will be terminated upon the satisfactory review of the conversion as determined by OCDD, pursuant to its 90 day post conversion site visit; and

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:94 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter M. Supported Employment Module

§5099. General Provisions

A. ...

1. return all telephone calls from clients within one business day, other than during working hours;

2. - 3. ...

4. have licensed nursing services staff and direct care staff;

A.5. - B. ...

C. The assessment of needs shall be done prior to placement of the client on a job site. A Medicaid HCBS comprehensive assessment approved by a LDH program office for a Medicaid recipient shall not substitute for the assessment of needs. A comprehensive plan of care approved by the department for Medicaid or waiver reimbursement shall not substitute for the ISP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:95 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 51. Home and Community-Based Services Providers

Subchapter A. Monitored In-Home Caregiving Module

§5101. General Provisions

A. - A.2. ...

B. Providers applying for the monitored in-home caregiving module under the HCBS license shall meet the core licensing requirements (except those set forth in §5005.B.4, §5005.C.ii and §5007.F.1.c) and the module specific requirements of this Section.

C. During any survey or investigation of the HCBS provider with the MIHC module conducted by the LDH-HSS, the survey process begins once the surveyor enters either the client's place of residence or the provider's licensed place of business. When the survey begins at the client's residence, the provider shall transmit any records requested by the HSS surveyor within two hours of such request to the location as designated by the HSS surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5103. Staffing Requirements, Qualifications, and Duties

A. - E.3. ...

F. Care Manager Responsibilities. The following responsibilities of the care manager for the MIHC module shall substitute for the requirements in §5055.L and §5055.M. The responsibilities of the MIHC care manager shall include:

F.1. - G.2.a. ...

b. have a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, in accordance with the applicable state laws;

c. ...

d. be at least 18 years of age;

G.2.e. - H.5. ...

6. providing ongoing supervision of health-related activities, including, but not limited to:

a. reminding the client to take prescribed medications;

b. - h.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5105. Operational Requirements for Monitored In-Home Caregiving

A. Training. The following requirements for training and competency for the MIHC module shall substitute for the training and competency requirements in §5055.H, §5055.I, and §5055.J.

A.1. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2641 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Providers—Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that $12,960 (SGF) will be expended in FY 17-18 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to further clarify and correct the formatting of the provisions governing the licensing standards for home and community-based services (HCBS) providers to assure that these provisions are promulgated in a clear and concise manner in the Louisiana Administrative Code. It is anticipated that the implementation of this proposed rule will have no economic costs, but may be beneficial to HCBS providers in FY 17-18, FY 18-19 and FY 19-20 by providing clear and concise licensing standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Section Director
1708#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
New Opportunities Waiver
(LAC 50:XXI.Chapters 137-143)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Chapters 137-143 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the allocation of waiver opportunities in the New Opportunities Waiver (NOW) to revise the criteria for emergency opportunities, simplify the allocation process for NOW emergency opportunities and facilitate faster access to NOW emergency services for qualified individuals (*Louisiana Register*, Volume 42, Number 9). The department now proposes to amend the provisions governing the NOW in order to align language with the current, approved waiver application, incorporate federal home and community-based settings requirements and clarify current policy.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 11. New Opportunities Waiver
Chapter 137. General Provisions
§13701. Introduction

A. The New Opportunities Waiver (NOW), hereafter referred to as the NOW, is designed to enhance the home and community-based services and supports available to individuals with developmental disabilities, who would otherwise require an intermediate care facility for persons with developmental disabilities (ICF-DD) level of care. The mission of the NOW is to utilize the principle of self-determination and supplement the family and/or community supports while supporting the dignity, quality of life and security in the everyday life of an individual, and maintaining that individual in the community. Services provided in the NOW are community-based, and are

designed to allow an individual experience that mirrors the experiences of individuals without disabilities. These services are not to be restrictive, but liberating, by empowering individuals to experience life in the most fulfilling manner as defined by the individual while still assuring health and safety. In keeping with the principles of self-determination, NOW includes a self-direction service delivery option. This allows for greater flexibility in hiring, training, and general service delivery issues.

B. All NOW services are accessed through the case management agency of the participant's choice. All services must be prior authorized and delivered in accordance with the approved comprehensive plan of care (CPOC). The CPOC shall be developed using a person-centered process coordinated by the participant's case manager.

C. ...

D. In order for the NOW provider to bill for services, the participant and the direct service provider, professional or other practitioner rendering service, must be present at the time the service is rendered unless otherwise allowed in rule. The service must be documented in service notes describing the service rendered and progress towards the participant's personal outcomes and CPOC.

E. Only the following NOW services shall be provided for, or billed for, the same hours on the same day as any other NOW service:

1. ...

2. supported independent living; and

3. skilled nursing services. Skilled nursing services may be provided with:

a. ...

b. supported independent living;

c. - d. ...

e. prevocational services.

F. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1647 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:68 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13702. Settings for Home and Community-Based Services

A. NOW participants are expected to be integrated in and have full access to the greater community while receiving services, to the same extent as individuals without disabilities. Providers shall meet the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) Home and Community-Based Setting Requirements for Home and Community-Based Services (HCBS) Waivers as delineated in LAC 50:XXI.901.

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 for Citizens with Developmental Disabilities, LR 43:

§13703. Participant Qualifications and Admissions Criteria

A. In order to qualify for NOW, an individual must be three years of age or older, offered a waiver opportunity (slot) and meet all of the following criteria:

1. - 5. ...

6. have justification, as documentation in the approved comprehensive plan of care, that NOW services are appropriate, cost effective and represent the least restrictive environment for the individual;

7. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:96 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13705. Denial of Admission or Discharge Criteria

A. Individuals shall be denied admission to or discharged from the NOW if one of the following criteria is met:

1. - .5. ...

6. the health and welfare of the participant cannot be assured through the provision of NOW services within the participant's approved comprehensive plan of care;

7. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1202 (June 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities LR 40:69 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13707. Programmatic Allocation of Waiver Opportunities

A. - C.5.b. ...

6. Two hundred and eighty-one waiver opportunities shall be used for qualifying individuals with developmental disabilities who require emergency waiver services. In the event that a waiver opportunity is vacated, the opportunity will be returned to the emergency pool for support planning based on the process for prioritization. Once the 281 waiver opportunities are filled, supports and services based on the priority determination system will be identified and addressed through other resources currently available for individuals with developmental disabilities.

7. Funded waiver opportunities not addressed above shall be available for allocation to the next individual on the registry who successfully completes the financial eligibility and medical certification process and is certified for the waiver.

8. Repealed.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 31:2900 (November 2005), amended LR 33:2440 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:3526 (December 2011), LR 40:70 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 139. Covered Services

§13901. Individual and Family Support Services

A. Individual and family support (IFS) services are direct support and assistance services, provided in the participant's home or in the community, that allow the participant to achieve and/or maintain increased independence, productivity, enhanced family functioning and inclusion in the community to the same degree as individuals without disabilities. IFS services are also used to provide relief to the primary caregiver. Transportation is included in the reimbursement for these services. Reimbursement for these services includes the development of a service plan for the provision of these services, based on the approved COPC.

1. Individual and family support day (IFS-D) services will be authorized during waking hours for up to 16 hours when natural supports are unavailable in order to provide continuity of services to the participant. Waking hours are the period of time when the participant is awake and not limited to traditional daytime hours as outlined in the CPOC.

a. Additional hours of IFS-D services beyond the 16 hours can be approved based on documented need, which can include medical or behavioral need, and specified in the approved CPOC.

2. Individual and family support-night (IFS-N) service is direct support and assistance provided during the participant's sleeping "night" hours. Night hours are considered to be the period of time when the participant is asleep and there is a reduced frequency and intensity of required assistance. IFS-N services are not limited to traditional nighttime hours and are outlined in the CPOC. The IFS-N worker must be immediately available and in the same residence as the participant to be able to respond to the participant's immediate needs. Documentation of the level of support needed, based on the frequency and intensity of needs, shall be included in the CPOC with supporting documentation in the provider's services plan. Supporting documentation shall outline the participant's safety, communication, and response methodology planned for and agreed to by the participant and/or his/her authorized representative identified in his/her circle of support. The IFS-N worker is expected to remain awake and alert unless otherwise authorized under the procedures noted below.

a. ...

b. The participant's support team shall assess the participant's ability to awaken staff. If it is determined that the participant is able to awaken staff and requests that the IFS-N worker be allowed to sleep, the CPOC shall reflect the participant's request.

c. - d. ...

e. Any allegation of abuse/neglect during sleeping hours will result in the discontinuation of allowance of the staff to sleep until investigation is complete. Valid findings of abuse/neglect during night hours will require immediate revision to the CPOC.

B. IFS services may be shared by up to three waiver participants who may or may not live together and who have a common direct service provider agency. Waiver participants may share IFS services staff when agreed to by the participants and health and welfare can be assured for each participant. The decision to share staff must be reflected on the CPOC and based on an individual-by-individual determination and choice. Reimbursement rates are adjusted accordingly. Shared IFS services, hereafter referred to as shared support services, may be either day or night services.

C. IFS (day or night) services include:

1. - 2.f. ...

3. personal support and assistance in participating in community, employment, health and leisure activities;

C.4. - D.2. ...

3. IFS-D and IFS-N services will not be authorized or provided to the participant while the participant is in a center-based respite facility.

4. Repealed.

E. - E.2. ...

3. An IFS-D or IFS-N worker/shared supports worker shall not work more than 16 hours in a 24-hour period unless there is a documented emergency or a time-limited non-routine need that is documented in the approved CPOC or granted in writing by the OCDD waiver director/designee.

F. - F.3. ...

G. Provider Requirements. Providers must be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1202 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:2063 (November 2006), LR 33:1647 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13903. Center-Based Respite Care

A. - C. ...

C. Service Limits. CBR services shall not exceed 720 hours per participant, per CPOC year.

1. ...

D. Provider Requirements. Providers must be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1203 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1648 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:72 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13905. Community Integration Development

A. Community integration development (CID) facilitates the development of opportunities to assist participants in becoming involved in the community through the creation of natural supports. The purpose of CID is to encourage and foster the development of meaningful relationships in the community reflecting the participant's choices and values. Objectives outlined in the comprehensive plan of care will afford opportunities to increase community inclusion, participation in leisure/recreational activities, and encourage participation in volunteer and civic activities. Reimbursement for this service includes the development of a service plan. To utilize this service, the participant may or may not be present as identified in the approved CID service plan. CID services may be performed by a shared supports worker for up to three waiver participants who have a common direct service provider agency. Rates shall be adjusted accordingly.

B. ...

C. Service Limitations. Services shall not exceed 60 hours per participant per CPOC year which includes the combination of shared and non-shared community integration development.

D. Provider Qualifications. Providers must be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1203 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1648 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:72 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13907. Supported Independent Living

A. Supported independent living (SIL) assists the participant to acquire, improve or maintain those social and adaptive skills necessary to enable a participant to reside in the community and to participate as independently as possible. SIL services include assistance and/or training in the performance of tasks such as personal grooming, housekeeping and money management. Payment for this service includes oversight and administration and the development of service plans for the enhancement of socialization with age-appropriate activities that provide enrichment and may promote wellness. The service plan should include initial, introduction, and exploration for positive outcomes for the participant for community integration development. These services also assist the participant in obtaining financial aid, housing, advocacy and self-advocacy training as appropriate, emergency support, trained staff and assisting the participant in accessing other programs for which he/she qualifies. SIL participants must be 18 years or older.

B. Place of Service. Services are provided in the participant's residence and/or in the community. The participant's residence includes his/her apartment or house, provided that he/she does not live in the residence of any legally responsible relative. An exception will be considered when the participant lives in the residence of a spouse or disabled parent, or a parent age 70 or older. Family members who are not *legally responsible relatives* as defined in §13901.D.1, can be SIL workers provided they meet the same qualifications as any other SIL worker.

C. Exclusions

1. Legally responsible persons may not be SIL providers for the individual whom they are legally responsible.

2. SIL shall not include the cost of:

a. - e. ...

3. SIL services cannot be provided in a substitute family care setting.

D. Service Limit. SIL services are limited to one service per day, per CPOC year, except when the participant is in center-based respite. When a participant living in an SIL setting is admitted to a center-based respite facility, the SIL provider shall not bill the SIL per diem beginning with the date of admission to the center-based respite facility and through the date of discharge from the center-based respite facility.

E. Provider Qualifications. Providers must be licensed by the Louisiana Department of Health as a home and community-based services provider and meet the module specific requirements for the service being provided.

F. Provider Responsibilities

1. Minimum direct services by the SIL agency include two documented contacts per week and one documented face-to-face contact per month by the SIL provider agency in addition to the approved direct support hours. These required contacts must be completed by the SIL agency supervisor so designated by the provider agency due to the experience and expertise relating to the participants' needs or a licensed/certified professional qualified in the state of Louisiana who meets requirements as defined by 42 CFR §483.430 or any subsequent regulation.

2. ...

3. Supported independent living services shall be coordinated with any services listed in the approved CPOC, and may serve to reinforce skills or lessons taught in school, therapy or other settings.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1204 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1648 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:73 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13909. Substitute Family Care

A. Substitute family care (SFC) provides for day programming, transportation, independent living training, community integration, homemaker, chore, attendant care and companion services, and medication oversight (to the extent permitted under state law) to participants residing in a substitute family care home that meets all licensing requirements for the substitute family care module. The service is a stand-alone family living arrangement for

participants age 18 and older. The SFC house parents assume the direct responsibility for the participant's physical, social, and emotional well-being and growth, including family ties. Only two SFC participants may reside in a single SFC setting at the same time. There shall be no more than three persons living in a substitute family care setting who are unrelated to the SFC provider. Immediate family members (mother, father, brother and/or sister) cannot be substitute family care parents. Reimbursement for this service includes the development of a service plan based on the approved CPOC. Participants living in an SFC home may receive IFS services.

B. - C. ...

1. Repealed.

D. Provider Qualifications. Providers must be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1204 (June 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:73 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13911. Day Habilitation

A. Day habilitation is provided in a community-based setting and provides the participant assistance with social and adaptive skills necessary to enable the participant to participate as independently as possible in the community. These services focus on socialization with meaningful age-appropriate activities which provide enrichment and promote wellness, as indicated in the participant's CPOC. Day habilitation services are provided in a variety of community settings, (i.e. local recreation department, garden clubs, libraries, etc.) other than the person's residence and are not limited to a fixed-site facility.

1. Day habilitation services must be directed by a person-centered service plan and provide the participant choice in how they spend their day. The activities should assist the participant to gain their desired community living experience, including the acquisition, retention or improvement in self-help, socialization and adaptive skills, and/or to provide the individual an opportunity to contribute to and be a part of his or her community.

a. - f. Repealed.

2. Day habilitation services shall be coordinated with any therapy, prevocational service, or supported employment models that the participant may be receiving. The participant does not receive payment for the activities in which he/she are engaged. The participant must be 18 years of age or older in order to receive day habilitation services.

3. Career planning activities may be a component of the participant's plan and may be used to develop learning opportunities and career options consistent with the person's skills and interests.

B. Service Limits. Services can be provided one or more hours per day but not to exceed eight hours per day or 8,320 one quarter hour units of service per CPOC year.

C. Licensing Requirements. Providers must be licensed by the Louisiana Department of Health and as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1204 (June 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:73 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13913. Supported Employment

A. Supported employment is competitive work in an integrated work setting, or employment in an integrated work setting in which the participants are working toward competitive work that is consistent with the strengths, resources, priorities, interests, and informed choice of participants for whom competitive employment has not traditionally occurred. The participant must be eligible and assessed to need the service in order to receive supported employment services. The outcome of this service is sustained paid employment and work experience leading to further career development and individual integrated community-based employment for which an individual is compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

B. Individuals eligible for Louisiana Rehabilitation Services (LRS) must access those services prior to utilizing home and community based waiver supported employment services.

C. Supported employment is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed. Supported employment cannot be provided at worksites that are facility based, or other similar types of vocational services furnished in specialized facilities that are not part of the general workplace. Supported employment includes activities needed by waiver participants to sustain paid work, including supervision and training and is based on an individualized service plan. Supported employment may include assistance and prompting with:

C.1. - D. ...

1. A one-to-one model of supported employment is a placement strategy in which an employment specialist (job coach) places a person into competitive employment, provides training and support and then gradually reduces time and assistance at the work site through formation of natural supports. This service is time limited to six to eight weeks in duration.

2. Follow along services are designed for participants who are in supported employment and have been placed in a work site and only require minimum oversight for follow along at the job site. This service is limited to 24 days per CPOC year.

3. Mobile work crew/enclave is an employment setting in which a group of two or more participants, but no more than eight perform work in a variety of locations under

the supervision of a permanent employment specialist (job coach/supervisor). This service is up to eight hours a day, five days per week.

E. Service Exclusions

1. Services shall not be used in conjunction or simultaneously with any other waiver service, except substitute family care, supported independent living, and skilled nursing services.

2. When supported employment services are provided at a work site in which persons without disabilities are employees, payment will be made only for the adaptations, supervision and training required by participants receiving waiver services as a result of his/her disabilities, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

3. Services are not available to participants who are eligible and have been accepted to participate in programs funded under Section 110 of the Rehabilitation Act of 1973 or Section 602(16) and (17) of the Individuals with Disabilities Education Act, 20 U.S.C. 1401(16) and (71).

F. Service Limits

1. One-to-one intensive services shall not exceed 1,280 one quarter hour units per CPOC year. Services shall be limited to eight hours a day, five days a week, for six to eight weeks.

2. Follow along services shall not exceed 24 days per CPOC year.

3. Mobile crew/enclave services shall not exceed 8,320 one quarter hour units of service per CPOC year, without additional documentation. This is eight hours per day, five days per week.

G. Licensing Requirements. The provider must possess a valid certificate of compliance as a community rehabilitation provider (CRP) from Louisiana Rehabilitation Services or be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1649 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:74 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13915. Transportation for Day Habilitation and Supported Employment Models

A. Transportation provided for the participant to the site of the day habilitation or supported employment model, or between the day habilitation and supported employment model site (if the participant receives services in more than one place) is reimbursable when day habilitation or supported employment model has been provided. Reimbursement may be made for a one-way trip. There is a maximum fee per day that can be charged for transportation regardless of the number of trips per day.

B. Licensing Requirements. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module specific requirements for the service being provided. The licensed provider must carry $1,000,000 liability insurance on the vehicles used in transporting the participants.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:2064 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:74 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13917. Prevocational Services

A. Prevocational services are intended to prepare a participant for paid employment or volunteer opportunities in the community to the participant's highest level. Prevocational services allow the individual to develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated community settings.

1. Prevocational services are intended to develop and teach general skills such as;

a. the ability to communicate effectively with supervisors, co-workers, and customers;

b. accepted community workplace conduct and dress;

c. the ability to follow directions and attend to tasks;

d. workplace problem solving skills and general workplace safety; and

e. mobility training.

2. Prevocational Services are provided in a variety of locations in the community and are not limited to a fixed-site facility. Participants receiving prevocational services must have an employment related goal as part of their CPOC and service plan. The general habilitation activities must support their employment goals. Prevocational Services are designed to create a path to integrated community based employment for which an individual is compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. Assistance with personal care may be a component of prevocational services, but may not comprise the entirety of the service.

B. Prevocational services are provided on a regularly scheduled basis and may be scheduled on a comprehensive plan of care for one or more days per week and may be prior authorized for up to 8,320 units of service in a plan year with appropriate documentation. A standard unit is one quarter hour.

1. - 8. Repealed.

C. Exclusions. The following service exclusions apply to prevocational services.

1. ...

D. Service Limits. Services shall not exceed eight hours a day, five days a week, and cannot exceed 8,320 one quarter hour units of service per CPOC year. Additionally, prevocational services are time limited to four years, after which the participant should be able to transition into

employment. Exceptions to the four year limitation may be approved at the discretion of OCDD program office.

E. Licensing Requirements. Providers must be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1205 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1649 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:75 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13919. Environmental Accessibility Adaptations

A. - C. ...

1. Any service covered under the Medicaid state plan shall not be authorized by NOW. The environmental accessibility adaptation(s) must be delivered, installed, operational and accepted by the participant/authorized representative in the CPOC year for which it was approved. The environmental accessibility adaptation(s) must be billed and reimbursed according to the Medicaid billing guidelines established by LDH policy. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modification, must be obtained and submitted for prior authorization. Modifications may be applied to rental or leased property with the written approval of the landlord and approval of the human services authority or district. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

2. - 5. ...

6. Excluded are those vehicle adaptations which are of general utility or for maintenance of the vehicle. Car seats are not considered a vehicle adaptation.

D. Service Limits. There is a cap of $7,000 per three year period for a participant for environmental accessibility adaptations. On a case-by-case basis, with supporting documentation and based on need, a participant may be able to exceed this cap with the prior approval of OCDD central office.

E. - E.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, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1206 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1649 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:75 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13921. Specialized Medical Equipment and Supplies

A. - D. ...

E. Service Limitations. There is a cap of $1,000 per three year period for a participant for specialized equipment and supplies. On a case-by-case basis, with supporting documentation and based on need, a participant may be able to exceed this cap with the prior approval of OCDD central office.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1649 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:75 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13925. Professional Services

A. Professional services are services designed to increase the participant's independence, participation and productivity in the home, work and community. Participants, up to the age of 21, who participate in NOW must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Professional services may only be furnished and reimbursed through NOW when the services are not covered under the Medicaid state plan. Professional services must be delivered with the participant present and be provided based on the approved CPOC and an individualized service plan. Service intensity, frequency and duration will be determined by individual need. Professional services may be utilized to:

1. - 4. ...

5. provide necessary information to the participant, family, caregivers and/or team to assist in the implementation of plans according to the approved CPOC.

B. - B.1. ...

2. Social work services are highly specialized direct counseling services furnished by a licensed clinical social worker and designed to meet the unique counseling needs of individuals with development disabilities. Counseling may address areas such as human sexuality, depression, anxiety disorders, and social skills. Services must only address those personnel outcomes and goals listed in the approved CPOC.

3. ...

C. Service Limits. There shall be a $2,250 cap per participant per CPOC year for the combined range of professional services in the same day but not at the same time. Additional services may be prior authorized if the participant reaches the cap before the expiration of the comprehensive plan of care and the participant's health and safety is at risk.

D. - E.5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1207 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1650 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:76 (January 2014), amended by the Department of Health, Bureau of Health

Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13927. Skilled Nursing Services

A. Skilled nursing services are medically necessary nursing services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse. Skilled nursing services shall be provided by a licensed, enrolled home health agency and require an individual nursing service plan. These services must be included in the participant's approved CPOC. All Medicaid state plan services must be utilized before accessing this service. Participants, up to the age of 21, must access these services as outlined on the CPOC through the Home Health Program.

B. When there is more than one participant in the home receiving skilled nursing services, services may be shared and payment must be coordinated with the service authorization system and each participant's approved CPOC. Nursing consultations are offered on an individual basis only.

C. Provider Qualifications. The provider must be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1208 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1651 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:77 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13929. One Time Transitional Expenses

A. One-time transitional expenses are those allowable expenses incurred by participants who are being transitioned from an ICF-DD to his/her own home or apartment of their choice in the community of their choice. *Own home* shall mean the participant's own place of residence and does not include any family members home or substitute family care homes. The participants must be allowed choice in the items purchased.

B. - D. ...

E. Provider Qualifications. This service shall only be provided by the Department of Health, Office for Citizens with Developmental Disabilities (OCDD) with coordination of appropriate entities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1208 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1651 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:77 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13931. Adult Companion Care

A. Adult companion care services assist the participant to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for an individual who lives independently and can manage his/her own household with limited supports. The companion is a principal care provider chosen by the participant, who provides services in the participant's home and lives with the participant as a roommate. Adult companion care services are furnished through a licensed provider organization as outlined in the participant's CPOC. This service includes:

1. providing assistance with all of the activities of daily living as indicated in the participant's CPOC;

2. - 3. ...

B. Adult companion care services are arranged by provider organizations that are subject to licensure. The setting is the participant's home which should have been freely chosen by the participant from among non-disability specific settings and not owned or controlled by the provider. The companion is an employee or contractor of the provider organization and is responsible for providing limited, daily direct services to the participant.

1. ...

2. Services may not be provided by a family member who is the participant's spouse or legal guardian.

C. ...

1. The provider organization shall develop a written agreement as part of the participant's CPOC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

2.a. - 3.b. ...

c. contacting the companion a minimum of once per week or as specified in the participant's comprehensive plan of care; and

3.d. - 4.a. ...

b. inclusion of any other expenses must be negotiated between the participant and the companion. These negotiations must be facilitated by the provider and the resulting agreement must be included in the written agreement and in the participant's CPOC.

D. Companion Responsibilities

1. The companion is responsible for:

a. participating in, and abiding by, the CPOC;

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

1. Adult companion care services may be authorized for up to 365 days per year as documented in the participant's CPOC.

F. Service Exclusions

1. ...

2. Participants receiving adult companion care services are not eligible for receiving the following services:

a. supported independent living;

b. - d. ...

G. Provider Qualifications. Providers must be licensed by the Louisiana Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:77 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13933. Remote Assistance

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 and the Office for Citizens with Developmental Disabilities, LR 40:78 (January 2014), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13935. Housing Stabilization Transition Service

A. Housing stabilization transition service enables participants who are transitioning into a permanent supportive housing unit, including those transitioning from institutions, to secure their own housing. The service is provided while the participant is in an institution and preparing to exit the institution using the waiver. The setting for the permanent supportive housing must be integrated in the greater community, and support full access to the greater community by the participant. The service includes the following components:

1. conducting a housing assessment to identify the participant's preferences related to housing (i.e., type, location, living alone or with someone else, accommodations needed, and other important preferences), and his/her needs for support to maintain housing, including:

a. access to housing of the participant's choice, including non-disability specific settings;

1.b - 3.c. ...

4. participating in the development of the comprehensive plan of care and incorporating elements of the housing support plan; and

A.5. - C.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:78 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

§13937. Housing Stabilization Service

A. Housing stabilization service enables waiver participants to maintain their own housing as set forth in the participant's approved CPOC. Services must be provided in the home or a community setting. This service includes the following components:

1. - 1.h....

2. participating in the development of the CPOC, incorporating elements of the housing support plan;

A.3. - C.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:79 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 141. Self-Direction Initiative

§14101. Self-Direction Service Delivery Option

A. ...

B. Participant Responsibilities. Waiver participants choosing the self-directed service delivery option must understand the rights, risks and responsibilities of managing his/her own care and individual budget. If the participant is unable to make decisions independently, he/she must have an authorized representative who understands the rights, risks and responsibilities of managing his/her care and supports within his/her individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. ...

3. participation in the development and management of the approved personal purchasing plan:

a. this annual budget is determined by the recommended service hours listed in the participant's CPOC to meet his/her needs;

b. ...

C. Termination of the Self-Direction Service Delivery Option. Termination of participation in the self-direction service delivery option requires a revision of the CPOC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service delivery option and return to the traditional provider agency management of services.

2. - 2.d.iv. ...

D. All services rendered shall be prior approved and in accordance with the comprehensive plan of care.

E. All services must be documented in service notes, which describes the services rendered and progress towards the participant's personal outcomes and his/her comprehensive plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1651 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:79 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

Chapter 142. Provider Participation Requirements

§14202. Incident Reporting, Tracking and Follow-Up

A. The direct service provider is responsible for responding to, reviewing, and remediating incidents that occur to the participants they support. The specific guidelines for response and mitigation of incidents is contained in OCDD Operational Instruction OI F-5, *Critical Incident Reporting, Tracking, and Follow-up Activities for Waiver Services*. Direct service providers must comply with this operational instruction in addition to any other rules promulgated by the LDH regarding incident reporting and response.

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 for Citizens with Developmental Disabilities, LR 43:

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

A. Reimbursement for services shall be a prospective flat rate for each approved unit of service provided to the participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than 15 minutes (one quarter hour) of service. This covers both service provision and administrative costs for the following services:

1. - 3. ...

4. prevocational services;

5. individual and family support-day and night:

5.a. - 10. ...

B. The following services are to be paid at cost, based on the need of the participant and when the service has been prior authorized and on the CPOC:

1. - 3. ...

C. The following services are paid through a per diem:

1. ...

2. supported independent living;

C.3. - E. ...

F. Direct Support Professionals Wages. The minimum rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it requires more community integrated services for individuals.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by streamlining the process for receiving approval for environmental modifications and specialized equipment.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The net impact as a result of the implementation of this proposed rule is indeterminable. First, the Companion Care Service would serve as a substitute service option in lieu of individual and family support services. The lower cost of Companion Care may lead to a potential savings. In addition, the Rule makes changes to Environmental Modification Service and Specialized Medical Equipment Services by removing the threshold for resetting of the 3 year cost cap and implements a rolling 3 year cost cap. The change in the Environmental Modification Service and the Specialized Medical Equipment Services would result in approvals of modifications without the need for an exception, which has the potential for cost impact, but at an indeterminable amount. It is anticipated that $4,860 ($2,430 SGF and $2,430 FED) will be expended in FY 17-18 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 17-18. It is anticipated that $2,430 will be collected in FY 17-18 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 the New Opportunities Waiver (NOW) in order to align language with the current approved waiver application, incorporate federal home and community-based settings requirements and clarify current policy. It is anticipated that implementation of the proposed Rule may have a potential impact to recipients since the Rule change may facilitate the use of modification/equipment services to recipients, and will strengthen recipient rights, choice and integration into the community as required by the CMS Settings Rule which provides recipients with a more normal life experience. In addition, there may be an impact to providers if changes to their service delivery is required to comply with the new CMS Setting Rule regarding recipient rights, choice and integration into the community. It is anticipated that implementation of this proposed rule will have minimal, if any, economic costs or benefits to NOW service providers for FY 17-18, FY 18-19 and FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1708#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20001 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

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

As a result of a budgetary shortfall in state fiscal year (SFY) 2017-2018, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200 and to impose provisions to ensure that the current rates in effect do not increase for the SFY 2018 rating period (*Louisiana Register*, Volume 43, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2017 Emergency Rule.

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

A. - B.7. ...

C. Effective for the rate period of July 1, 2017 through June 30, 2018, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and impose the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2016.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2017 state fiscal year (December 31, 2016).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2016.

4. Base capital values for the Bed Buy-Back Program (LAC 50:II.20012) purposes will be set equal to the value of these items as of July 1, 2016.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2017.

6. As of the July 1, 2018 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2017 rate period.

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

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), LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family

functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that $540 ($270 SGF and $270 FED) will be expended in FY 17-18 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 17-18. It is anticipated that $270 will be collected in FY 17-18 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the July 1, 2017 Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the current rates in effect do not increase for the SFY 2018 rating period. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to nursing facilities for FY 17-18, FY 18-19 and FY 19-20, since Medicaid payments for nursing facility services will remain at the current level.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1708#049	Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities—Standards for Payment
Level of Care Pathways
(LAC 50:II.10156)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.10156 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 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 amended the provisions governing level of care pathways in order to clarify the provisions of the June 20, 2013 Rule which amended the provisions governing the standards for payment for nursing facilities to clarify level of care determinations (*Louisiana Register*, Volume 41, Number 7). The department now proposes to amend the provisions governing level of care pathways in order to further clarify these provisions.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Medical Assistance Program
Subpart 3. Standards for Payment
Chapter 101. Standards for Payment for Nursing Facilities
Subchapter G. Levels of Care
§10156. Level of Care Pathways

A. - C.4. ...

D. Activities of Daily Living Pathway

1. - 3.e. ...

f. toileting—includes getting on and off the toilet, wiping, arranging clothing, etc.;

D.3.g. - E.1.c. ...

2. In order for an individual to be approved under the cognitive performance pathway, the individual must have any one of the conditions noted below:

a. - b. ...

c. have a memory problem and is sometimes understood (e.g., the individual's ability is limited to making concrete requests);

d. have a short-term memory problem and is rarely or never understood;

e. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is usually understood (e.g., the individual has difficulty finding words or finishing thoughts and prompting may be required);

f. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is sometimes understood, (e.g., his/her ability is limited to making concrete requests);

g. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is rarely or never understood;

h. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor and requires cues and supervision in specific situations only) and the individual is sometimes understood (e.g., the individual's ability is limited to making concrete requests); or

i. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor, cues and supervision are required in specific situations only) and the individual is rarely or never understood.

j. - m. Repealed.

F. Physician Involvement Pathway

1. ...

2. The following are investigated for this pathway:

a. physician visits occurring during the 14-day look-back period (excluding emergency room exams); and

b. physician orders issued during the 14-day look-back period (excluding order renewals without change and hospital inpatient visits).

3. In order for an individual to be approved under the physician involvement pathway, the individual must have:

a. one day of doctor visits and at least 4 new order changes within the 14-day look-back period; or

b. at least 2 days of doctor visits and at least 2 new order changes during the 14-day look-back period.

i. - iii. Repealed.

4. Supporting documentation is required and must include:

a. a copy of the physician's orders; or

b. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or

c. the appropriate form designated by OAAS to document the individual's medical status and condition.

5. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

G. Treatments and Conditions Pathway

1. The intent of this pathway is to identify individuals with unstable medical conditions that may be affecting a person's ability to care for himself/herself.

a. - h. Repealed.

2. The following are investigated for this pathway:

a. stage 3-4 pressure sores during the 14-day look-back period;

b. intravenous feedings during the 7-day look-back period;

i. - iii. Repealed.

c. intravenous medications during the 14-day look-back period;

d. daily tracheostomy care and ventilator/respiratory suctioning during the 14-day look-back period;

e. pneumonia during the 14-day look-back period and the individual had associated need for assistance with IADLs, ADLs, or restorative nursing care;

f. daily respiratory therapy provided by a qualified professional during the 14-day look-back period;

g. daily insulin injections with two or more order changes during the 14-day look-back period; or

h. peritoneal or hemodialysis during the 14-day look-back period.

3. In order for an individual to be approved under the treatments and conditions pathway, the individual must have:

a. any one of the conditions listed in G.2.a-h above; and

b. supporting documentation for the specific condition(s) identified. Acceptable documentation must include:

i. a copy of the physician's orders; or

ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or

iii. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

H. Skilled Rehabilitation Therapies Pathway

1. The intent of this pathway is to identify individuals who have received, or are scheduled to receive physical therapy, occupational therapy or speech therapy.

2. In order for an individual to be approved under this pathway, the individual must:

a. have received at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy during the seven-day look-back period; or

b. be scheduled to receive at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy scheduled during the seven-day look-forward period.

i. - v. Repealed.

3. Supporting documentation of the therapy received/scheduled during the look-back/look-forward period is required and must include:

a. a copy of the physician's orders for the received/scheduled therapy;

b. the home health care plan notes indicating the received/scheduled therapy;

c. progress notes indicating the physical, occupational, and/or speech therapy received;

d. nursing facility or hospital discharge plans indicating the therapy received/scheduled; or

e. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

I. Behavior Pathway

1. The intent of this pathway is to identify individuals who have experienced repetitive behavioral challenges which have impacted his/her ability to function in the community during the specified screening/assessment look-back period.

a. - d. Repealed

2. The following are investigated for this pathway:

a. wandering;

i. - iv. Repealed.

b. verbally- or physically-abusive behavior;

i. - iv. Repealed.

c. socially-inappropriate behavior; and

d. delusions or hallucinations.

d.i. - e. Repealed.

3. In order for an individual to be approved under the behavior pathway, the individual must have either:

a. exhibited any one of the following behaviors four or more days of the screening tool's seven-day look-back period:

i. wandering;

ii. verbally abusive;

iii. physically abusive; or

iv. socially inappropriate or disruptive; or

b. exhibited any one of the following behaviors during the assessment tool's three-day look-back period and behavior(s) were not easily altered:

i. wandering;

ii. verbally abusive;

iii. physically abusive; or

iv. socially inappropriate or disruptive; or

c. experienced delusions or hallucinations that impacted his/her ability to live independently in the community within the specific screening/assessment tool's look-back period.

J. Service Dependency Pathway

1. The intent of this pathway is to identify individuals who are currently in a nursing facility or receiving services through the Adult Day Health Care Waiver, the Community Choices Waiver, Program of All Inclusive Care for the Elderly (PACE) or receiving long-term personal care services.

2. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities—Standards for Payment—Level of Care Pathways

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 17-18. It is anticipated that $1,188 ($594 SGF and $594 FED) will be expended in FY 17-18 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 17-18. It is

anticipated that $594 will be collected in FY 17-18 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 the standards for payment for nursing facilities in order to further clarify existing provisions governing level of care pathways. It is anticipated that implementation of this proposed rule will have no costs or benefits to nursing facilities in FY 17-18, FY 18-19 and FY 19-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1708#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation proposes to amend LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed action will adopt Statewide Order No. 29-R-17/18 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-16/17.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 2. Statewide Order No. 29-R
Chapter 7. Fees
§701. Definitions

* * *

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 20.0.

* * *

Class V Permit Waiver/Exemption/Area Permit Request—a request for a waiver or exemption from the permitting requirements of class V injection wells for certain remediation wells/projects of short duration where remediation is accomplished by one time injection into shallow wells where casing is not installed, or a request for an area permit for remediation projects under the authority of the LDEQ or USEPA to allow deviation from the permitting requirements for class V injection wells as authorized by Statewide Order 29-N-1 (LAC 43:XVII.111 et seq.) or successor regulations.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016), LR 43:

§703. Fee Schedule for Fiscal Year 2016-2017 and Thereafter

A. - D.5. …

E. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee ($ per Well)
Tier 1	0	28
Tier 2	1 - 5,000	165
Tier 3	5,001 - 15,000	474
Tier 4	15,001 - 30,000	788
Tier 5	30,001 - 60,000	1,241
Tier 6	60,001 - 110,000	1,727
Tier 7	110,001 - 9,999,999	2,162

F. - F.3. …

G. Commercial Waste Disposal Fees

1. A monthly fee payable to the Office of Conservation of $0.02 per barrel of exploration and production waste delivered, as reported on a form prescribed by the department to collect commercial facilities monthly report of waste receipts, from the original generator of the waste to the following facilities: Office of Conservation permitted off-site commercial facilities; transfer stations permitted by the Office of Conservation for waste transfer to out-of-state treatment or disposal facilities; and any other legally permitted Louisiana off-site waste storage, treatment of disposal facilities also approved by the Office of Conservation for the receipt of exploration and production waste. For the purposes of this Paragraph, exploration and production waste shall not include produced brine, produced water, or salvageable hydrocarbons bound for permitted salvage oil operators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931

(November 2012), LR 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016), LR 43:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-17/18 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-17/18) supersedes Statewide Order No. 29-R-16/17 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016), LR 43:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interest parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4:30 p.m., September 11, 2017, at the Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. 17-299. All inquiries should be directed to Todd Keating at the above addresses or by phone to (225)342-5507. No preamble was prepared

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to the state or local governmental units as a result of the proposed rule changes. The proposal provides for changes in the definitions, the capable oil and gas tiers, and the severability and effective date of the Office of Conservation General Operations Statewide Order No. 29-R. Proposed Statewide Order No. 29-R-17/18 establishes the Louisiana Office of Conservation Fee Schedule for the collection of application, production, and regulatory fees by the Office of Conservation and will replace the existing Statewide Order No. 29-R-16/17.

The agency will retain the maximum revenue caps authorized by R.S. 30:21 et seq. The proposed rule changes do not modify the authorized maximum revenue caps for FY18. The severability and effective date of the proposed rule is November 20, 2017.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are anticipated to have a net zero impact on the Office of Conservation. The proposed rule changes the per well annual production fees for operators of capable oil wells and capable gas wells. These increases are as follows: Tier 1 from $27 to $28; Tier 2 from $155 to $165; Tier 3 from $445 to $474; Tier 4 from $739 to $788; Tier 5 from $1,165 to $1,241; Tier 6 from $1,622 to $1,727; and Tier 7 from $2,025 to $2,162. The average increase in production fees of 6.6% is anticipated to be offset by the number of wells decreasing from an estimated 15,638 in FY 17 to an estimated 14,364 in FY 18, a decrease of 1,274 wells (8%). The FY 17 estimated revenue from production fees is $3,674,992. After accounting for increases in production fees and the reduction in the number of wells, the FY 18 estimated revenue from production fees is $3,674,998, an insignificant increase of $6.

The proposed rule changes the Office of Conservation's General Operations Statewide Order No. 29-R and provides changes in the definitions, the fee schedule, and the severability and effective date of the Office of Conservation General Operations Statewide Order No. 29-R. Changes to the definitions include: (1) changing the BOE-annual barrels oil equivalent from 24.0 to 20.0 that is based on a three year average (FY 14 - 16) of the cost of oil and gas; and (2) changing the Class V Permit Waiver/Exemption by adding Area Permit to the title, and inserting the phrase "or a request for an area permit for remediation projects under the authority of the LDEQ or USEPA to allow deviation from the permitting requirements for Class V injection wells" before the words "as authorized by Statewide Order 29-N-1 (LAC 43:XVII.111 et seq.) or successor regulations".

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is anticipated to have an indeterminable economic impact on oil and gas operators. Due to a reduction in the number of wells, operators will pay more for the annual well production fees. The per well annual production fees for operators of capable oil wells and capable gas wells are increased as follows: Tier 1 from $27 to $28; Tier

2 from $155 to $165; Tier 3 from $445 to $474; Tier 4 from $739 to $788; Tier 5 from $1,165 to $1,241; Tier 6 from $1,622 to $1,727; and Tier 7 from $2,025 to $2,162.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have an impact on competition and employment in the public and private sector.

Gary P. Ross	Evan Brasseaux
Assistant Commissioner	Staff Director
1708#028	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Sterlet Sturgeon Facility Permit (LAC 76:VII.905 and 909)

The Wildlife and Fisheries Commission hereby advertises its intent to modify rules and regulations regarding approved domestic aquatic organisms (R.S. 56:411). The proposed changes add a species of sturgeon to domesticated aquatic organisms that are approved for use in aquaculture. This will allow the development of additional non-native aquaculture business in Louisiana while providing safeguards to assist in protecting native fish species.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 9. Aquaculture

§905. Domesticated Aquatic Organisms

A. Procedures for Approving a New Species of Domesticated Aquatic Organism

1. - 6. …

B. The following is a list of "domesticated aquatic organisms" approved for use in aquaculture:

1. - 20. …

21. sterlet sturgeon (*Acipenser ruthenus*) (see LAC 76:VII.909).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56.411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008), amended LR 35:1139 (June 2009), repromulgated LR 35:1263 (July 2009), amended LR 43:

§909. Sterlet Sturgeon

A. Rules and Regulations on Importation, Culture, Disposal and Sale of Sterlet Sturgeon in Louisiana. The following terms shall have the following meanings in this Section.

Culture—all activities associated with the rearing and nurturing of sterlet sturgeon.

Culture System—shall be an approved recirculating indoor system designed such that all water containing, or that at any time might contain, sterlet sturgeon (adult fish, juvenile fish, fingerlings) is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

Disposal—the business of processing, selling, or purposely removing sterlet sturgeon from the culture system.

Permittee—the individual or organization that possesses a valid Louisiana sterlet sturgeon permit.

Process—the act of killing sterlet sturgeon, and proper disposal of sterlet sturgeon in such manner as the department deems necessary to prevent any possibility of accidental release of live fish.

Secretary—the secretary of the Department of Wildlife and Fisheries.

Sterlet Sturgeon—pure strain of fish (adult fish, juvenile fish, fingerlings), belonging to the species *Acipenser ruthenus*.

Sterlet Sturgeon Permit—official document pertaining to culture of sterlet sturgeon, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of sterlet sturgeon in Louisiana as approved by the secretary or his designee.

B. Sterlet Sturgeon Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live sterlet sturgeon in Louisiana must first request a sterlet sturgeon permit from the secretary or his designee of the Department of Wildlife and Fisheries. A separate permit will be required for each facility or location. The following procedures will be necessary.

a. Applications for permits can be obtained by contacting the:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

b. The completed applications should be returned to the same address whereby Office of Fisheries personnel will review the application. Department personnel or a department-approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a sterlet sturgeon permit. Department personnel will then recommend to the secretary or his designee if the applicant's request should be approved or disapproved.

d. The secretary or his designee will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval, applicants may reapply after correcting specified deficiencies noted in the secretary's or his designee's letter of denial.

C. Rules on Transport of Live Sterlet Sturgeon

1. Export of live sterlet sturgeon will not be allowed for Louisiana sterlet sturgeon permit holders.

2. For each occurrence of live sterlet sturgeon being imported into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the department. These requests shall be made three business days before the expected date of shipment. Procedures and necessary information for obtaining approval are:

a. requests shall be made to either via email to the designated departmental contact or via mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

b. requests shall include:

i. Louisiana sterlet sturgeon permit number;

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. species certification made within the past 30 days identifying shipped stock to species;

viii. total number of sterlet sturgeon;

ix. identification of seller and buyer and any permit numbers from the jurisdiction of origin through to the jurisdiction of destination.

3. A bill of lading must accompany the live Sterlet sturgeon during import, transport, transfer or sale and shall include:

a. copy of the permittee's written approval as described in LAC 76:VII.909.C.2 above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of sterlet sturgeon;

e. name, address and phone number of seller;

f. name, address and phone number of buyer;

g. identification and certification as to species;

h. total number of sterlet sturgeon;

i. destination;

j. the source must provide certificate of health from a veterinarian or other certified expert stating that sterlet sturgeon are not showing signs of diseases;

k. display the words "STERLET" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

D. Rules for Security of Sterlet Sturgeon Culture Facility

1. Sterlet live holding facilities will not be permitted east of the Mississippi River.

2. Applicant must demonstrate to the satisfaction of department officials that adequate security measures are in place at the live holding facility that will guard against vandalism and theft of sterlet sturgeon .

3. Any changes or modification of a permitted security system must first have the approval of department officials.

4. The department will have just cause to revoke a sterlet sturgeon permit for lapses in security if:

a. the permittee is found to be in noncompliance with Paragraphs 1 and 2 above;

b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;

c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

4. It shall be the responsibility of the permittee to immediately notify the secretary or his designee of any sterlet sturgeon that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism, failure of facilities or structure and theft.

5. It shall be the responsibility of the permittee to have at least one individual who is familiar with the live holder system readily available for emergencies and inspections, both announced and unannounced.

E. Rules of Sterlet Sturgeon Culture Site

1. A legal description of the sterlet sturgeon live holding facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the sterlet sturgeon culture facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

4. The department will require an approved live holding contingency plan for disposal of live sterlet sturgeon in the event of impending flooding or other natural disasters.

5. All sterlet sturgeon shall be tagged with a departmental approved non-removable tag.

F. Rules for the Sterlet Sturgeon Culture System

1. Applicant must provide a detailed narrative description, including scale drawings, of the sterlet sturgeon culture system.

2. The sterlet sturgeon culture system shall be an approved indoor recirculating system designed such that sterlet sturgeon eggs, larvae, fingerlings, juveniles or adults cannot escape.

3. All water utilized in the culture of sterlet sturgeon shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the sterlet sturgeon culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of sterlet sturgeon through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any department-approved live-holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department's satisfaction a basic knowledge and understanding of the culture, rearing (care and feeding), biology, and potential local ecological impacts of sterlet sturgeon.

G. Rules for the Processing of Sterlet Sturgeon

1. All sterlet sturgeon and sterlet sturgeon parts other than live sterlet sturgeon specifically permitted by the department must be killed and properly processed prior to leaving the sterlet sturgeon culture facility. At no time will live sterlet be allowed to be moved within Louisiana without expressed approval of the department. No live sterlet shall be sold or transferred to any party from either within Louisiana or outside of Louisiana from Louisiana sterlet sturgeon permitees.

2. Records shall be kept of all sterlet sturgeon processed at a culture facility and shall include the following information:

a. source of fish;

b. processed pounds of both meat and caviar;

c. date processed.

3. A copy of this information shall be sent to the department's Baton Rouge office at the end of each year, or at any time upon the request of department officials.

H. General Rules for Sterlet Sturgeon

1. The cost of a sterlet sturgeon live holding permit shall be $250, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. domesticated aquatic organism license;

b. wholesale/retail dealers license or a retail dealer's license;

3. permits are valid for 12 months and expire December 31 every year;

4. permits are not transferable from person to person, or property to property;

5. live sterlet sturgeon shall not be sold from a Louisiana sterlet sturgeon permitee;

6. no breeding or artificial fertilization of sterlet sturgeon or sterlet hybrids are allowed in Louisiana;

7. no person may release live sterlet sturgeon , fish or eggs, into the waters of Louisiana (whether public or private);

8. permittee must agree to collect and provide an adequate number of sterlet sturgeon to the department or a department-approved contractor upon request for identification and analysis, at the permittee's expense;

9. the only sturgeon allowed in commercial aquaculture under the Louisiana sterlet sturgeon permit is *Acipenser ruthenus.* No sterlet sturgeon hybrids are allowed;

10. sterlet sturgeon permitees shall be required to submit an annual report to the secretary or his designee on a form provided by the department;

11. the department may employ whatever means it deems necessary to prevent the release or escapement of sterlet sturgeon or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions;

12. the department shall review all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse the Department of Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the sterlet sturgeon permitee shall, post a $1,000,000 performance bond, or present a letter of credit from a financial institution stating that the $1,000,000 is available to the department on a certificate of deposit;

13. if a permittee terminates sterlet sturgeon culture, the permittee shall notify the secretary or his designee immediately and dispose of the sterlet sturgeon according to methods approved by the department;

14. in addition to all other legal remedies, including provisions of R.S. 56:319(E), failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All sterlet sturgeon shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation;

15. any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319, R.S. 411, and R.S. 412.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 43:

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Robert Bourgeois, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 prior to Friday, September 29, 2017.

Chad J. Courville
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sterlet Sturgeon Facility Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is expected to result in a moderate increase in expenditures by the Louisiana Department of Wildlife and Fisheries (L.D.W.F.). Under the proposed rule LDWF is expected to incur minimal expenses related to inspecting sterlet sturgeon facilities.

The proposed rule change establishes the procedures for issuing permits for individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live sterlet sturgeon in Louisiana. The proposed rule change sets the cost of a sterlet sturgeon live holding permit at $250. Permittees are also liable for the cost of the on-site inspection. Qualified research institutions may be exempt from the fee. Permits are valid for 12 months and expire on December 31 of each year. Permits are not transferable.

It requires applicants for the sterlet sturgeon live holding permit to hold a domestic aquatic organism license and a wholesale/retail dealer’s license or retail dealer’s license.

It defines the procedure for obtaining a permit to import live sterlet sturgeon into Louisiana or to transfer live sterlet sturgeon within the state. It requires the source of the sterlet sturgeon to provide a certificate of health from a veterinarian or

other cerified expert that the fish are not showing signs of disease. It prohibits the export of live sterlet sturgeon from Louisiana.

It establishes rules for the security of sterlet sturgeon culture facilities. The applicant must demonstrate appropriate measures to prevent vandalism, theft, or accidental release of fish.

It prohibits sterlet sturgeon facilities east of the Mississippi River.

It establishes rules for the sterlet sturgeon culture site. The culture site must be situated at least one foot above the 100-year flood plain. The facility must produce a contingency plan to dispose of live sterlet sturgeon in the event of impending floods or other natural disasters.

It requires the insertion of an approved non-removable tag on each sterlet sturgeon in a facility.

It requires the use of indoor recirculating systems for the culture of sterlet sturgeon to prevent the possibility of escape of fish. The culture and processing systems must be enclosed to preclude predation from birds, mammals, amphibians, and reptiles. The operators of the facility must identify means to dispose of sterlet sturgeon through chlorination, desiccation, or other appropriate methods in the event of an emergency.

It prohibits breeding or artificial fertilization of sterlet sturgeon or sterlet hybrids. The proposed rule change allows only sterlet sturgeon. Sterlet sturgeon hybrids are prohibited. The proposed rule change prohibits the release of live sterlet sturgeon, fish or eggs, into the public or private waters of Louisiana.

It change requires the permittee to reimburse the L.D.W.F. for all costs of recapture or eradication of escaped fish in the event of the release of sterlet into Louisiana waters. The permittee is required to post a $1,000,000 performance bond, or present a letter of credit from a financial institution stating that the $1,000,000 is available to the department on a certificate of deposit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to result in a moderate increase in the revenue collections of the L.D.W.F.

A permittee is required to hold a domestic aquatic organism license ($15 annually), a wholesale/retail seafood dealers license ($250 annually), and a sterlet sturgeon live holding permit ($250 annually). At the time of promulgation, one individual/organization expressed an interest in establish a sterlet sturgeon facility in Louisiana. To the extent, one individual is issued these permits; LDWF expects to collect $515 per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is expected to benefit individuals and agencies who wish to produce sterlet sturgeon for roe and meat in Louisiana by allowing the operation of live sturgeon facilities in the state.

It includes several regulatory requirements intended to prevent the escape or release of sterlet sturgeon into Louisiana waters that may increase the cost of building and operating a live sterlet sturgeon facility. Because the costs of compliance will vary with the size and nature of the facility, the increased costs are difficult to assess with the available information.

The proposed rule change requiring a certificate of health from a veterinarian or other certified source will impose a cost on the live sterlet sturgeon facility and the source from which it obtains the fish who must pay a fee to acquire the certification.

The proposed rule change prohibiting the sale or shipment of live sterlet sturgeon from Louisiana may potentially reduce revenue for Louisiana producers who would be unable to participate in a market for live sturgeon. The potential lost sales, being contingent upon fluctuations in the market price for live sturgeon and on the productive capacity of the applicant's facility, cannot be assessed with the available information.

The proposed rule change prohibiting live sterlet sturgeon facilities east of the Mississippi River may potentially impose a future opportunity cost on firms that may wish to establish facilities in that area. At present, the only individual or organization expressing an interest in establishing a live sterlet sturgeon facility is located in central Louisiana west of the Mississippi River.

The proposed rule requiring either the posting of a $1,000,000 performance bond or the presentation of a $1,000,000 letter of credit will impose a financing cost on the permittee. The premium for the performance bond or fees for the letter of credit will vary with market rates and the credit rating of the applicant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton	Evan Brasseaux
Undersecretary	Staff Director
1708#018	Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Health
Board of Veterinary Medicine

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the state board examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American veterinary licensing examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline To Apply
November 14 - December 10, 2017	August 1, 2017
April 2018	February 1, 2018

The board will also accept applications to take the veterinary technician national examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows.

Test Date	Deadline To Apply
July 15 - August 15, 2017	June 15, 2017
November 15 - December 15, 2017	October 15, 2017
March 15 - April 15, 2018	February 15, 2018
July 15 - August 15, 2018	June 15, 2018

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 301 Main Street, Suite 1050, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parrish
Executive Director

1708#001

POTPOURRI

Department of Insurance
Office of the Commissioner

Public Hearing—Substantive Changes to Proposed Rule Regulation 108—Investigation of Discrimination Complaints (LAC 37:XIII.Chapter 151)

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., published a Notice of Intent in the April 20, 2017 edition of the *Louisiana Register* (LR 43:828-832) to adopt Regulation 108—Investigation of Discrimination Complaints. The purpose of Regulation 108 is to establish procedures for receiving and investigating discrimination complaints, pursuant to subpart C of chapter 1 of title 22 of the *Revised Statutes* (R.S. 22:31 et seq., "equal opportunity in insurance").

The department accepted public comments from April 20, 2017 through May 22, 2017. As a result of the comments received, the department now proposes substantive changes to the provisions in §§15105, 15107, 15109, 15111, 15113, and 15117 of the proposed Rule.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 151. Regulation 108—Investigation of Discrimination Complaints

§15101. Authority

A. This regulation is promulgated by the commissioner of insurance pursuant to authority granted under subpart C of chapter 1 of title 22 of the *Revised Statutes* (R.S. 22:31 et seq., "equal opportunity in insurance"), which provides the following:

1. the Department of Insurance Division of Diversity and Opportunity shall review all complaints alleging a violation of the provisions of R.S. 22:31 et seq.;
2. the commissioner of insurance shall promulgate rules and regulations to implement R.S. 22:31 et seq.; and
3. the commissioner of insurance shall promulgate rules and regulations necessary for the enforcement of R.S. 22:35.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15103. Purpose, Scope, and Applicability

A. The purpose of this regulation is to implement the provisions of R.S. 22:31 et seq., which prohibit discrimination within the business of insurance, mandate the review and disposition of all complaints alleging a violation of R.S. 22:31 et seq., and require the commissioner to promulgate rules and regulations to implement R.S. 22:31 et seq.

B. This regulation sets forth procedures through which complaints concerning the following types of discrimination shall be received and investigated:

1. employment discrimination prohibited by Part IV of Chapter 3-A of Title 23 (R.S. 23:331 et seq.), as provided in R.S. 22:31(C) and R.S. 22:33; and

2. pursuant to R.S. 22:34, the making or permitting of any unfair discrimination in favor of particular persons or between insureds or subjects of insurance having substantially like insuring risk and exposure factors or expense elements:

a. in the terms or conditions of any insurance contract;

b. in the rate or amount of premium charged therefor;

c. in the benefits payable thereunder; or

d. in any other rights or privileges accruing thereunder;

e. Paragraph B.2 of this Section shall not prohibit fair discrimination by a life insurer as between individuals having unequal life expectancies;

3. pursuant to R.S. 22:35, the refusal to issue or the failure to renew any policy or contract of property and casualty insurance to a person, solely because of the race of the applicant or the economic condition of the area in which the property sought to be insured is located, unless such refusal to issue or failure to renew is based on sound actuarial principles or is related to actual experience.

C. Every insurer transacting business in this state shall be subject to this regulation.

D. This regulation shall not preclude or in any way limit the personal rights of action of any person against any insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15105. Definitions

A. For the purposes of this regulation, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Affirmative Action Plan—a document that contains a stated purpose of the insurer to foster equal opportunities for minorities and the delineation of active steps and efforts by the insurer reasonably calculated to achieve the stated purpose.

Department—Department of Insurance.

Individual—a natural person.

Insurer—as defined in R.S. 22:46.

Person—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15107. Eligibility; Filing a Complaint

A. Any person may file a complaint regarding any action taken by an insurer that is alleged to be the result of an insurer's engagement in discrimination as described in §15103.B of this Part. Complaints may be filed by mail, facsimile, or by using the department's consumer complaint form, available upon request from the department or on the department's website.

B. Every complaint alleging unlawful discrimination as described in §15103.B of this Part shall be filed for review with the department in written form within one year of the date the discrimination alleged was known or should have been known to the complainant.

C. Each written complaint shall state specifically the discrimination alleged to have occurred, in sufficient detail to enable the Division of Diversity and Opportunity to understand what occurred, when it occurred, and the basis of the alleged discrimination. The complaint should also contain the names and other identifying information of each party involved and any other supporting documentation relevant to the complaint.

D. When a complaint is filed by a producer, a claims adjuster, or employee of an insurer, the commissioner shall not disclose to the insurer the identity of the complainant without his or her consent. If it is determined that such disclosure is required for an administrative proceeding or other court proceeding based upon the findings of the investigation, or if such disclosure is in the interest of due process and necessary to the insurer's investigation of the complaint, then the commissioner shall notify the complainant prior to disclosure of his or her identity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15109. Notification of Insurer; Responses of Insurer

A. After receipt of a complaint, the Division of Diversity and Opportunity shall notify the insurer against whom the complaint was filed. Notice to the insurer shall state the nature of the complaint and shall request that the insurer file a written response to the allegations of discrimination. The Division of Diversity and opportunity shall submit such notice to the contact person designated by the insurer to respond to inquiries from minority groups pursuant to R.S. 22:31(A)(2).

B. Within 20 days of receipt of the notice of complaint, unless provided an extension of time by the division, the insurer shall file a written response to the allegations. The insurer's response shall be filed by mail, facsimile, or electronically. The response filed by the insurer shall respond to each complaint of discrimination alleged to have occurred. As part of the response, the insurer may submit any affirmative action plan that was in effect at the time of the alleged violation.

C. Failure of the insurer to respond timely shall result in a fine pursuant to R.S. 22:1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15111. Investigation; Findings

A. The Division of Diversity and Opportunity shall consider any affirmative action plan submitted to it, along with any other pertinent information submitted to it, in investigating complaints alleging employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.)

B. Following the completion of its review of a properly filed complaint, the receipt of the insurer's response, and any further investigation the department requires, the Division of Diversity and Opportunity shall issue its finding to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15113. Enforcement; Sanctions

A. In the event the Division of Diversity and Opportunity finds an apparent violation of R.S. 22:31 et seq., the commissioner may apply penalties as provided for in the Insurance Code.

1. for employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), the commissioner may issue a cease and desist order and other penalties, as provided in R.S. 22:33;

2. for violations of R.S. 22:35, the commissioner shall fine the insurer $10,000 for each occurrence, as provided for in R.S. 22:35; or

3. for violations of R.S. 22:34, the commissioner shall issue a cease and desist order and other penalties as provided for in R.S. 22:1969 and 1970.

B. In lieu of taking action against an insurer alleged to have engaged in employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), the commissioner may advise the complainant to file a complaint with the federal Equal Employment Opportunity Commission or the Louisiana Commission on Human Rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15115. Administrative Hearing

A. Prior to the imposition of a penalty or sanction for an apparent violation of R.S. 22:31 et seq., an aggrieved party affected by a decision, act, or order of the commissioner may make a written demand for a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15117. Violations Reported by Employees; Retaliation by Insurer Prohibited

A. This regulation shall not preclude or in any way limit the applicability of R.S. 22:14(A), which prohibits any insurer transacting business in this state from penalizing any of its employees for reporting to the commissioner or other appropriate authorities, in good faith, a suspected violation of the Insurance Code, including discrimination prohibited by R.S. 22:31 et seq. As provided in R.S. 22:14(A), *penalizing* shall include the following:

1. discharging, disciplining, demoting, transferring, or otherwise discriminating against an employee of the insurer;

2. reducing the benefits, pay, or work privileges of the employee of the insurer;

3. preparing a negative work performance evaluation of an employee of the insurer;

4. threatening to take any of the above actions.

B. This regulation shall not preclude or in any way limit the applicability of R.S. 22:14(C), which provides that any employee who makes a written sworn report on the activities of an insurer is not subject to civil liability for making the report and no civil cause of action may arise against the employee for making the report. This immunity shall apply provided that the information available to the employee would support a reasonable belief that the activity, policy, or practice reported violates the Insurance Code, a rule, or the law, or impairs or endangers the solvency of the insurer. No such immunity shall apply to any report that is fraudulent or made in bad faith. Employees who intentionally make fraudulent reports or make reports in bad faith shall be guilty of the crime of false swearing and subject to the penalties provided for in R.S. 14:125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§15119. Severability

A. If any Section or provision of Regulation 108 or its application to any persons or circumstances is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 108 to any persons or circumstances that can be given effect without the invalid Section or provision or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on the proposed substantive changes will be held by the Department of Insurance on September 20, 2017, at 10 a.m. at the offices of the Louisiana Department of Insurance, Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Hearing—Substantive Changes to Proposed Rule—Regulation 108 Investigation of Discrimination Complaints

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in additional costs or savings to state or local governmental units. The purpose of Regulation 108 is to establish procedures for receiving and investigating discrimination complaints, pursuant to LA R.S. 22:31 et seq, "Equal Opportunity in Insurance".

The proposed rules codify existing law with regard to discrimination complaints. The proposed rules create a division of diversity and opportunity within the Department of

Insurance (LDOI) to review all complaints alleging a violation. LDOI will absorb workload requirements with existing staff and budget resources. LDOI has existing staff that currently handles discrimination complaints; therefore the department is not anticipating requiring additional personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect collections of state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules promulgate procedures for investigation and enforcement of discrimination complaints. This will protect and enforce equal opportunity in the business of insurance. In the event the division of diversity and opportunity finds an apparent violation, the Commissioner of Insurance may require an insurer to cease and desist engaging in the discriminatory practices or may assess sanctions and penalties up to ten thousand dollars against the insurer. The failure of the insurer to timely respond to any complaint notified from the LDI, shall result in a fine of no more than $250 for each complaint pursuant to R.S. 22:1995.

Furthermore, the proposed rules codify present statute granting protection from retaliation for employees who make reports of suspected violations of the Insurance Code in good faith.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not impact competition and employment in the state.

Denise Gardner
Deputy Commissioner
1708#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Dardan Expl Inc-H Edison Ellis	Tepetate, North	L	vua;Charles F Fee Estate et al	001	205306
Belchie and Laskey	Wildcat-No La Shreveport Dist	S	T and P	007	2362
La Gulf Corpn	Red River-Bull Bayou	S	Albritton	002	26963
Monroe Well Service	Caddo Pine Island	S	Crystal swd	012	190449
Ashland Oil and Refining Co.	Larose	L	I R Price et al	001	82123
Dr. R. E. King	Caddo Pine Island	S	Collins B	A-1	38085
Tarver Oil Company	Red River-Bull Bayou	S	Gov Land	001	3157
E and P Co, LLC	Wildcat-No La Monroe Dist	M	I P Co swd	001	973461
E and P Co, LLC	Woolen Lake	M	I P Co	001	234713
E and P Co, LLC	Woolen Lake	M	I P Co	004	240259
E and P Co, LLC	Woolen Lake	M	I P Co	005	242538
E and P Co, LLC	Woolen Lake	M	I P Co swd	002	974483
Doran and Braddock	Rifle Point, South	M	Art Sug; Learned-Peabody	001	121029
Carbon Consolidated, Inc.	Monroe	S	Goodwin	001	17552
Sam J Recile	Vinton	L	M Gray/E/	001	56995
Remuda Oil and Gas Corp.	Grogan	S	Samuels	001	166524

Richard P. Ieyoub
Commissioner

1708#023

POTPOURRI

Department of Public Safety and Corrections
Oil Spill Coordinator's Office

ID Valley Pipeline Oil Spill Mooringsport
Notice of Intent to Conduct Restoration Planning

Action: Notice of Intent to Conduct Restoration Planning (NOI)

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Coastal Protection and Restoration Authority (CPRA); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); and Louisiana Department of Wildlife and Fisheries (LDWF) (collectively, the "trustees").

Authorities: The Oil Pollution Act of 1990 (OPA) (33 U.S.C. §2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (La. Rev. Stat. 30:2451 et seq.) are the principal federal and state statutes, respectively, authorizing designated federal and state agencies and tribal officials to act on behalf of the public to (1) assess damages for injuries to natural resources and services resulting from a discharge of oil or the substantial threat of a discharge and (2) develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured resources. OPA implementing regulations may be found at 15 CFR Part 990 and OSPRA regulations at *Louisiana Administrative Code* Title 43:XXXIX. By letter dated March 27, 2017, and pursuant to 33 U.S.C. §2706(b)(3), the governor of Louisiana designated the trustees to act on behalf of the public under OPA. Sunoco Pipeline L.P., as the operator of the pipeline and on behalf of Mid-Valley Pipeline, is the identified responsible party and is therefore liable according to 33 U.S.C. §2702 for any natural resource damages resulting from the incident.

Purpose: As required by 15 CFR §§990.41 and 990.42, the trustees have determined that impacts to natural resources and services resulting from the unauthorized discharge of oil from the Mid-Valley Pipeline near Mooringsport, Louisiana beginning on or about October 13, 2014 (hereinafter, the "incident") (La. NRDA case file # LA2014_1013_1210) warrant conducting a natural resource damage assessment (NRDA) that will include restoration

planning. In accordance with 15 CFR §990.44 and LAC 43:XXIX.123, the trustees are issuing this NOI to inform the public that they are proceeding to the restoration planning phase of the NRDA, during which trustees evaluate information on potential injuries and use that information to determine the need for, type of, and scale of restoration as described in subpart E of 15 CFR Part 990. The trustees will be opening an administrative record (AR) pursuant to 15 CFR §990.45 and LAC 43:XXIX.127. The AR will be available to the public and document the basis for the trustees' decisions pertaining to injury assessment and selection of restoration alternatives.

Summary of Incident: On or about October 13, 2014, Sunoco Pipeline L.P. located a leak from the 20-inch Mid-Valley Pipeline near Mooringsport, LA. This pipeline failure resulted in the release of more than 4,500 barrels of crude oil into the Miller Branch Creek, Tete Bayou, and connecting waterways and wetlands. Response actions continued for several months, and at the height of the response approximately 400 personnel were on-scene assisting with the clean-up of spilled oil. Sunoco Pipeline L.P. clean-up operations included, among others, hard and sorbent booming, use of skimmers, excavation, high pressure flushing, damming, various washing techniques, removal of oiled habitat, use of vacuum trucks, and habitat removal to create access roads. According to response documents, an estimated 2,746 barrels of crude oil were recovered by Sunoco Pipeline L.P. from the surface waters of Miller Branch and Tete Bayou. Additional crude oil was recovered with sorbent materials and in excavated soils. Natural resources within the area that provide services to the public were impacted by oil and response actions resulting in injuries and mortality to a variety of wildlife, including, but not limited to, amphibians, birds, fish, invertebrates, mammals and reptiles. Wildlife response personnel reported hundreds of dead animals and approximately 70 animals that were relocated or rehabilitated and released, including turtles, snakes, frogs, a wood duck and a bat. Forested, bayhead swamp, and aquatic/bayou habitat and the services that those resources provide, among others, were also adversely impacted as a result of the discharged oil and response activities.

The trustees began the pre-assessment/field investigation phase of the NRDA in accordance with 15 CFR §990.43 and LAC 43:XXIX.117 to determine if they had jurisdiction to pursue restoration under OPA and OSPRA, and, if so, whether it was appropriate to do so. During the pre-assessment phase, the trustees collected and analyzed, and are continuing to analyze, the following: (1) data reasonably expected to be necessary to make a determination of jurisdiction and/or a determination to conduct restoration planning, (2) ephemeral data, and (3) information needed to design or implement anticipated assessment activities as part of the restoration planning phase. Activities included, among other things, collection of dead fish and wildlife, collection of qualitative, quantitative and observational data about oiled habitats and wildlife, and sediment and oil sample collection and analysis.

Under the NRDA regulations applicable to OPA and OSPRA, the trustees prepare and issue a Notice of Intent to conduct restoration planning (NOI) if they determine conditions that confirm the jurisdiction of the trustees and the appropriateness of pursuing restoration of natural resources have been met. This NOI announces that the trustees have determined to proceed with restoration planning to fully evaluate, assess, quantify, and develop plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of injured natural resources and losses resulting from the incident. The restoration planning process will include collection of information that the trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including services, and to determine the need for, and the type and scale of restoration alternatives.

Determinations

Determination of Jurisdiction

The trustees have made the following findings pursuant to 15 CFR §990.41 and LAC 43:XXXIX.101:

1. the incident resulted in the discharge of oil into or upon navigable waters of the United States. Such occurrence constitutes an "incident" within the meaning of 15 CFR §930.30;
2. the incident was not authorized under a permit issued pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651 et seq.;
3. natural resources under the trusteeship of the trustees have been injured as a result of the incident.

As a result of the foregoing determinations, the trustees have jurisdiction to pursue restoration under OPA.

Determination to Conduct Restoration Planning

The trustees have determined, pursuant to 15 CFR §990.42(a), that:

1. data collected pursuant to 15 CFR §990.43 demonstrate that injuries to natural resources have resulted from the incident, as described above;
2. the response actions did not adequately address the injuries resulting from the incident;
3. feasible primary and/or compensatory restoration actions exist to address injuries from the incident.

Based upon the foregoing determinations, the trustees intend to proceed with restoration planning for this Incident.

Public Participation: The trustees invite the public to participate in restoration planning for this incident. Public participation in decision-making is encouraged and will be facilitated through a publically available AR (described above) and publication of public notices in the *Louisiana Register*. Opportunities to participate in the process will be provided by the trustees at important junctures throughout the planning process and will include requests for input on restoration alternatives and review of planning and settlement documents (e.g. the trustees will be soliciting restoration projects that aim to restore natural resources and/or services that have a nexus to the injured natural resources and/or lost services; the public will be invited to

review the draft damage assessment and restoration plan (draft DARP) and draft settlement agreement documents). Public participation is consistent with all state and federal laws and regulations that apply to the NRDA process, including section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 CFR Part 990; section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the regulations for NRDA under OSPRA, *Louisiana Administrative Code* 43:XXIX.Chapter 1.

For Further Information: For more information or to view the AR please contact the Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6606, Attn: Gina Muhs Saizan.

Marty J. Chabert
Coordinator

1708#039

POTPOURRI

Department of State
Elections Division

Public Hearing—Substantive Changes
to Proposed Rule—Voting Technology

In accordance with the applicable provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), R.S. 18:21, and R.S. 36:742, the Department of State published a Notice of Intent in the June 20, 2017 edition of the *Louisiana Register* (LR 43:1220-1222) to establish a Rule for voting technology in the State of Louisiana, including the conduct of private elections and for the production and sale of maps of precincts and election jurisdictions in Louisiana.

The department conducted a public hearing on this Notice of Intent on July 24, 2017 to solicit comments and testimony on the proposed Rule. The department did not receive any oral or written comments at the public hearing or written comments from the public through the July 25, 2017 deadline for written comments. After a thorough review and careful consideration by the staff of the Elections Division, the department is proposing to clarify the various types of private elections the department can conduct. In addition, the department has decided not to pursue going through the Rule process for LAC 31:I.Chapter 8 until the provisions of LAC 31:I.801 have been resolved. The department will conduct a public hearing on substantive changes to LAC 31:I.801, as set forth below. The fiscal and economic impact of the proposed revisions to LAC 31:I.801 of the Notice of Intent was sent to the Legislative Fiscal Office for review and evaluation and a decision was made that the substantive changes had no fiscal or economic impact. A public hearing will be held to receive comments and testimony on the proposed revisions to the Notice of Intent.

Title 31
ELECTIONS
Part I. Election Process
Chapter 8. Voting Technology
Subchapter A. Private Elections
§801. Type of Election

A. The following are the different types of private elections which may be conducted utilizing the department's staff:

1. primary school, middle school, and high school elections. Examples include: the Reader's Choice elections; student government officers' elections, and homecoming elections. This type of private election would be considered an educational election with the purpose of informing students interested in voter registration and voting and would be done on a gratuitous basis with no charge for services or expenses by the department;

2. public service organizations. Examples include: active military organizations, Louisiana State Legislature, Louisiana State Police. This type of private election would be considered a public service and would be done on a gratuitous basis with no charge for services or expenses by the department;

3. disability organization elections. An example would be an election for officers of a disability organization. This type of private election would be an outreach event and would be done on a gratuitous basis with no charge for services or expenses by the department;

4. private entity or organization elections. Examples include officers for a private entity or organization such as: a union or other association; higher education student government officers; and political party elections for convention delegates. Private elections would be conducted on a reimbursement basis for services and expenses as provided for herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 43:

Public Comments

Interested persons may submit written comments to Lani Durio, Attorney, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed adoption of LAC 31:I.Chapter 8. The deadline for the Department of State to receive written comments is 4:30 p.m. on September 27, 2017 after the public hearing.

Public Hearing

A public hearing on these substantive changes to the proposed Rule is scheduled for Tuesday, September 26, 2017 at 11:00 a.m. in the auditorium, State Archives Building, 3851 Essen Lane, 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 with regard to the substantive changes to §801.

Tom Schedler
Secretary of State

1708#054

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