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Executive Orders

EXECUTIVE ORDER JBE 17-01

Mortgage Credit Certificate Certification

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (“Act”), Executive Order BJ 2008-47 was issued to establish a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond limits for the calendar year 2008 and subsequent calendar years; the procedure for obtaining an allocation of bonds under the ceiling; and a system of central record keeping for such allocations;

WHEREAS, this procedure of allocating bonds was continued in the issuance of Executive Order JBE 2016-35 on July 22, 2016;

WHEREAS, Section 4(H) of Executive Order BJ 2008-47 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of four hundred sixty-two million five hundred forty-seven thousand dollars (\$462,547,000) represented the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (“SBC”) for private activity bond volume limits for the year 2014 (“2014 Ceiling”);

WHEREAS, Executive Order BJ 2015-2, issued on February 9, 2015, allocated one hundred million dollars (\$100,000,000) from the 2014 ceiling to the Louisiana Housing Corporation (“the LHC”) to be used for Single Family Mortgage Revenue Bond Programs (the “2014 MRB Carryforward”);

WHEREAS, the LHC has requested, as of October 20, 2016, (the “Request Date”) a certification from the State in accordance with the requirements of Treasury Regulation 1.25-4T(d) and has advised that none of the 2014 MRB Carryforward has been used to issue Qualified Mortgage Bonds (“MRBs”) as of the Request Date and that the LHC has elected not to issue MRBs in an amount of Twenty Million Dollars (\$20,000,000) of the 2014 MRB Carryforward for purposes of establishing a 2016 Mortgage Credit Certificate Program (the “2016 MCC Program”);

WHEREAS, the SBC has determined that Twenty Million Dollars (\$20,000,000) of the 2014 MRB Carryforward is available to the LHC for the 2016 MCC Program.

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 certify that based on the facts and circumstances as of the Request Date as follows:

SECTION 1: The 2016 MCC Program to be implemented by the Louisiana Housing Corporation with Twenty Million Dollars (\$20,000,000) of the 2014 MRB Carryforward to the LHC is available to the LHC in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and that Twenty Million Dollars (\$20,000,000) of such 2014 MRB Carryforward is hereby allocated as follows:

Issuer	2014 Carry-Forward	2014 Carry-Forward
Louisiana Housing Corporation	Mortgage Credit Certificate Program	\$20,000,000

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

SECTION 3: This Order is effective upon signature and shall remain in effect unless and until amended, modified, terminated or rescinded by me, 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 11th day of January, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1702#002

EXECUTIVE ORDER JBE 17-02

Qualified Energy Conservation Bond Allocation Louisiana Stadium and Exposition District

WHEREAS, Federal law established volume cap authorization for Qualified Energy Conservation Bonds (“QECB”) that may be issued by each state, of which the State of Louisiana (the “State”) was granted a maximum allocation in the amount of \$45,759,000; and

WHEREAS, The State was granted a direct QECB allocation of \$17,282,462, and an indirect QECB allocation of \$28,476,538 to sub-allocate to qualified large local governmental entities;

WHEREAS, The State suballocated \$28,476,538 to qualified large local governmental entities, of which \$23,169,224 was returned to the State for reallocation, resulting in a total State QECB allocation of \$40,451,686; and

WHEREAS, To date, according to records of the Division of Administration, \$37,198,244 of the State’s QECB volume cap allocation has been previously utilized by political subdivisions and/or governmental agencies within

the State, resulting in a total remaining State QECB allocation of \$3,253,442; and

WHEREAS, The Louisiana Stadium and Exposition District (“LSED”) has requested and applied for an allocation of the State’s available QECB authority, in the amount of, and not exceeding, three million two hundred fifty-three thousand four hundred forty-two dollars (\$3,253,442), to undertake a QECB qualifying project to install capital improvements and upgrades at facilities controlled by the LSED.

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 certify that based on the facts and circumstances as of the Request Date as follows:

SECTION 1: The LSED shall be and is hereby granted an allocation of the available Qualified Energy Conservation Bond volume cap authorization issued to the State of Louisiana in the amount of \$3,253,442, to be utilized for the benefit of the LSED pursuant to a lease-purchase agreement for energy efficiency improvements, as approved by the Louisiana State Bond Commission on December 15, 2016, pursuant to Application No. S16-043.

SECTION 2: The allocation granted herein shall be used only by the LSED and for the general purpose of constructing, acquiring and improving energy facilities throughout the LSED as submitted by the LSED in connection with the request for the allocation granted herein.

SECTION 3: The allocation granted herein shall be valid in full force and effect through the term of the lease-purchase agreement described in Section 1, provided that said lease-purchase agreement is executed and delivered on or before June 30, 2017.

SECTION 4: This Order is effective upon signature and shall remain in effect, subject to the condition in Section 3, unless and until amended, modified, terminated or rescinded by me, 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 January, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1702#016

EXECUTIVE ORDER JBE 17-03

Carry-Forward Bond Allocation 2016

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act”), Executive Order Number JBE 2016-35 was issued to establish a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2016 and subsequent calendar years; (2) the procedure for

obtaining an allocation of bonds under the ceiling; and (3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of Executive Order Number JBE 2016-35 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of four hundred sixty-seven million seventy-two thousand four hundred dollars (\$467,072,400) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (“SBC”) for private activity bond volume limits for the year 2016 (“2016 Ceiling”);

WHEREAS, four hundred sixty-seven million seventy-two thousand four hundred dollars (\$467,072,400) of the 2016 Ceiling was not allocated during the 2016 calendar year; and

WHEREAS, the SBC has determined that four hundred sixty-seven million seventy-two thousand four hundred dollars (\$467,072,400) of the 2016 Ceiling is eligible for carry-forward, of which sixty million dollars (\$60,000,000) has been allocated, leaving three hundred ninety-four million nine hundred ninety-nine thousand six hundred dollars (\$394,999,600) of the excess 2015 Ceiling eligible and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act.

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for carry-forward filed by the designated issuer, the excess private activity bond volume limit under the 2016 Ceiling is hereby allocated to the following issuer(s), for the following carry-forward project(s), and in the following amount(s):

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Public Facilities Authority	Ryze Renewables Lake Charles, LLC Project	\$350,000,000
Louisiana Public Facilities Authority	Biomass Power Louisiana, LLC Project	\$88,536,200
Louisiana Public Facilities Authority	Solid Waste	\$28,536,200

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of January, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1702#022

EXECUTIVE ORDER JBE 17-04

Emergency Suspension of Certain
Insurance Code Provisions—Amended

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

WHEREAS, Proclamation No. 111 JBE 2016, issued on August 12, 2016, and continued by Proclamation No. 2 JBE 2017, declared a state of emergency for the State of Louisiana due to the heavy rain and flooding, which continues to threaten the safety and security of the citizens of Louisiana;

WHEREAS, Executive Order No. JBE 16-58, signed August 17, 2016, as renewed by Executive Order No. JBE 16-71, signed October 11, 2016, transferred to the Commissioner of Insurance limited authority to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and/or reinstatement provisions of Title 22;

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

WHEREAS, insurers have been working diligently to adjust and pay claims, however, due to a shortage in building materials, contractors, construction workers or delays in claim payments, many policyholders will be unable

to repair and/or reconstruct their residential, commercial residential or commercial property within typical time frames;

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

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

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

SECTION 1: Section 3 of Executive Order JBE 2016-58, signed August 17, 2016, shall be amended as follows:

This Order shall apply retroactively from Friday, August 12, 2016, and shall continue through Wednesday, May 10, 2017, unless amended, terminated, or rescinded by the Governor prior thereto.

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

SECTION 3: This Order is effective upon signature and shall continue in effect through Wednesday, May 10, 2017, unless amended, terminated, or rescinded by the Governor prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of February, 2017.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1702#023

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2715 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments in order to re-establish the provisions governing payments to public, non-rural community hospitals (*Louisiana Register*, Volume 40, Number 10). The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to establish a qualification criteria and DSH payment methodology for major medical centers located in the central and northern areas of Louisiana (*Louisiana Register*, Volume 42, Number 7).

In order to comply with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) requirements and the associated approved Medicaid State Plan amendment, the department now proposes to amend the provisions of the June 30, 2016 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals, and ensure their continued access to health services by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective February 20, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions of the June 30, 2016 Emergency Rule governing DSH payments to major medical centers located in the central and northern areas of the state.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

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

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

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

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

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

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

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

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

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

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

4. A pro rata decrease, necessitated by conditions specified in §2501.B.1 above for hospitals described in this Section, will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all of the qualifying hospitals described in this Section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment.

a. Additional payments shall only be made after finalization of the Centers for Medicare and Medicaid Services' (CMS) mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals described in this Section, based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid hospitals shall be paid on a pro rata basis calculated using each hospital's amount

underpaid, divided by the sum of underpayments for all of the hospitals described in this Section.

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

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

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

1702#042

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
Supplemental Payments
(LAC 50:IX.15151 and 15153)

The Department of Health, Bureau of Health Services Financing amends LAC 50:IX.15151 and §15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*; Volume 40, Number 3).

The Department of Health, Bureau of Health Services Financing has determined that it is necessary to amend the provisions governing the Professional Services Program to revise the reimbursement methodology for supplemental payments to physicians and other professional service practitioners in order to clarify the qualifying criteria for these payments and to reformat the provisions to ensure they 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 encouraging continued provider participation in the Medicaid Program to ensure recipient access to services. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the state in fiscal year 2017.

Effective February 20, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Professional Services Program to amend the reimbursement methodology for supplemental payments to physicians and other professional service practitioners.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

§15151. State Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after February 20, 2017, in order to qualify to receive supplemental payments, 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 bureau as an essential provider. Essential providers include:

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

b. has furnished satisfactory data to LDH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;
5. nurse midwives;
6. psychiatrists;
7. psychologists;
8. speech-language pathologists;
9. physical therapists;
10. occupational therapists;
11. podiatrists;
12. optometrists;
13. social workers;
14. dentists;
15. audiologists;
16. chemical dependency counselors;
17. mental health professionals;
18. opticians;
19. nutritionists;
20. paramedics; and
21. doctors of chiropractic.

C. Payment Methodology

1. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The *community rate* is defined as the average amount that

would have been paid by commercial insurers for the same services.

2. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to LDH, the default conversion factor shall equal "1". This conversion factor shall be established annually for qualifying physicians/practitioners by:

a. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and

b. dividing that amount by the respective charges for these payers.

3. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

4. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

D. Supplemental payments for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

E. - F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:544 (March 2014), promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§15153. Non-State Owned or Operated Professional Services Practices

A. Qualifying Criteria. Effective for dates of service on or after February 20, 2017, in order to qualify to receive supplemental payments, 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 at a non-state owned or operated governmental entity and identified by the non-state owned or operated governmental entity as a physician that is employed by, or under contract to provide services at said entity.

B. Qualifying Provider Types. For purposes of qualifying for supplemental payments under this Section, services provided by the following professional practitioners will be included:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners;
4. certified nurse anesthetists;

5. nurse midwives;
6. psychiatrists;
7. psychologists;
8. speech-language pathologists;
9. physical therapists;
10. occupational therapists;
11. podiatrists;
12. optometrists;
13. social workers;
14. dentists;
15. audiologists;
16. chemical dependency counselors;
17. mental health professionals;
18. opticians;
19. nutritionists;
20. paramedics; and
21. doctors of chiropractic.

C. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of this Section, the community rate shall be defined as the rates paid by commercial payers for the same service.

D. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by LDH.

E. Payment Methodology

1. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan.

2. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result.

3. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

F. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:544 (March 2014), 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. 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

1702#043

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

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

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

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

Effective March 16, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions establishing the Recovery Audit Contractor program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 85. Recovery Audit Contractor

§8501. General Provisions

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

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

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

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

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

§8503. Definitions

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

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

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

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

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

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

§8505. Contractor Functions

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

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

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

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

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

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

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

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

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

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

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

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

§8507. Reimbursement and Recoupment

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

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

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

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

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

§8509. Provider Notification

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

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

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

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

§8511. Records Requests

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

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

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

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

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

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

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

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

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

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

§8513. Audits and Records Submission

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

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

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

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

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

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

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

§8515. Appeals Process

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

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

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

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

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

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

notice of representation along with the request for informal hearing.

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

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

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

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

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

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

§8517. Penalties and Sanctions

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

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

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

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

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

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

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

1702#044

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 32—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential, or Commercial Property Insurance due to Historic Flooding (LAC 37:XI.Chapter 51)

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted by *Louisiana Revised Statute* 22:1 et seq., adopts Emergency Rule 32 which maintains and continues in effect the provisions of Emergency Rule 28 that became effective August 12, 2016, and Emergency Rule 30 that became effective October 13, 2016. Emergency Rule 32 shall be effective February 10, 2017 and shall remain effective through Wednesday, May 10, 2017.

Emergency Rule 32 is issued pursuant to the transfer of authority to suspend provisions of regulatory statutes and implementing regulations from the governor to the commissioner of insurance in Executive Order No. JBE 2016-58, signed by Governor John Bel Edwards on August 17, 2016, amended on September 12, 2016 by Executive Order No. JBE 2016-67, amended on October 11, 2016 by Executive Order No. JBE 2016-71, and subsequently amended on February 6, 2017 by Executive Order No. JBE 2017-04. The transfer of authority in Executive Order No. JBE 2016-58 is authorized in the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., and rules promulgated by the commissioner relative to the Louisiana Insurance Code are authorized in R.S. 22:11 and are promulgated through the aforementioned Administrative Procedure Act.

On August 12, 2016, Governor John Bel Edwards declared a state of emergency within the state of Louisiana in response to historic flooding in Louisiana. This state of emergency, declared pursuant to Proclamation No. 111 JBE 2016, extended from Friday, August 12, 2016, to Monday, September 12, 2016. Louisiana citizens have suffered damage due to this historic flooding. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed, precluding habitation. The damage caused by this historic flooding has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, interruption of communication services, the temporary displacement of persons from their homes, loss of personal belongings, and temporary loss of employment. This disruption has affected the ability of these citizens to timely

pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. This historic flooding has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

Insurers have been working diligently to adjust and pay claims. However, due to a shortage of building materials, contractors, and construction workers, many policyholders who have received, or will soon receive, claim payments from insurers will find that they are unable to repair or reconstruct their residential, commercial residential, or commercial property within normal time frames. In many places, it could be months before residential, commercial residential, or commercial property damaged by the historic flood can be repaired or reconstructed. This inordinate time period to repair or reconstruct residential, commercial residential, or commercial property continues to affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential, or commercial property insurance. For these reasons, Executive Order No. JBE 2016-58, amended by Executive Order No. JBE 2016-67 signed by Governor John Bel Edwards on September 12, 2016, amended by Executive Order No. JBE 2016-71, signed on October 11, 2016, and subsequently amended by Executive Order No. JBE 2017-04, signed on February 6, 2017, remains in effect through Wednesday, May 10, 2017.

The commissioner will be hindered in the proper performance of his duties and responsibilities under the Louisiana Insurance Code, as well as his duties and responsibilities regarding the referenced state of emergency, without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code and without the adoption of Emergency Rule 32, which relates to the cancellation and nonrenewal of all personal residential, commercial residential, or commercial property insurance subject to the Louisiana Insurance Code.

Therefore, Emergency Rule 32 is issued and shall apply to all insurers, property and casualty insurers, surplus lines insurers, and any and all other entities doing business in Louisiana and/or regulated by the commissioner, regarding any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, all surplus lines insurance, and any and all other insurance regulated entities doing business in Louisiana and/or regulated by the commissioner.

Emergency Rule 32 is applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a

major disaster declaration by the President of the United States or such officer acting under his authority.

Emergency Rule 32 is available on the internet at www.lds.state.la.us and is available for inspection between the hours of 8 a.m. until 4:30 p.m. at the Louisiana Department of Insurance, 1702 North Third Street, Baton Rouge, LA 70802.

Title 37
INSURANCE
Part XI. Rules

Chapter 51. Emergency Rule 32—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential, or Commercial Property Insurance Due To Historic Flooding

§5101. Benefits, Entitlements, and Protections

A. The benefits, entitlements, and protections of Emergency Rule 32 shall be applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5103. Applicability

A. Emergency Rule 32 shall apply to any and all types of personal residential, commercial residential, or commercial property insurance covering a dwelling, residential property, or commercial property located in one of the parishes set forth in §5101.A that sustained damage as a result of the August 2016 historic flood or its aftermath, including but not limited to, any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, and any and all other insurance regulated by the commissioner that falls within the intent and purpose of Emergency Rule 32.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5105. Cancellation or Nonrenewal Suspended

A. Any statutory or regulatory provision, or any policy provisions contained in any and all policies of insurance set forth in Section 5103.A above, that authorizes any insurer, surplus lines insurer, or any other entity regulated by the commissioner to cancel or nonrenew, on the grounds of a material change in the risk being insured, any personal

residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in Louisiana that sustained damages as a result of the August 2016 historic flood or its aftermath, is suspended and unenforceable, and such cancellations or nonrenewals shall be prohibited through Wednesday, May 10, 2017, unless extended by the commissioner. Any such notice of cancellation or nonrenewal issued on or after August 12, 2016, through May 10, 2017, shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements, and any such notice shall not be issued prior to May 11, 2017.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5107. Insured's Obligation

A. The insured is obligated to exercise good faith with regard to undertaking the repairs or reconstruction of the dwelling or residential property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5109. Insurer's Obligation

A. The insurer or surplus lines insurer or any other entity regulated by the commissioner is obligated to provide the insured with sufficient time to effectuate the repairs or reconstruction to the dwelling or residential property and to recognize the inordinate conditions that exist in the state of Louisiana with regard to the ability of the insured to engage a contractor, engage construction workers, obtain materials, and otherwise undertake to accomplish the necessary repairs or reconstruction of the dwelling, residential property, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5111. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 32 upon the written request by the insurer if the commissioner determines that compliance with Emergency Rule 32 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5113. Purpose and Intent

A. The provisions of Emergency Rule 32 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer

protection for the insureds of Louisiana who desire to maintain or obtain personal residential, commercial residential, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5115. Authority

A. The commissioner reserves the right to amend, modify, alter, or rescind all or any portion of Emergency Rule 32. Additionally, the commissioner reserves the right to extend Emergency Rule 32.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5117. Severability

A. If any Section or provision of Emergency Rule 32 is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Emergency Rule 32 to any persons or circumstances to which provisions can be given effect without the invalid Sections or provisions, and the application to any such person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§5119. Effective Date

A. Emergency Rule 32 shall be effective upon adoption and shall remain effective through Wednesday, May 10, 2017.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, Executive Order No. JBE 2016-71, and Executive Order No. JBE 2017-04.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

James J. Donelon
Commissioner

1702#025

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2016-17 King Mackerel Commercial Season Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the Department, by Commission action on January 7, 2016, to close the 2016-17 commercial king mackerel season in Louisiana state waters when he is

informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the secretary hereby declares:

Effective 12 noon, January 21, 2017, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2017. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fisherman. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel within or without Louisiana waters. Effective with this closure, no person shall possess king mackerel in excess of a daily bag limit within or without Louisiana waters. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were legally harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in federal waters of the Gulf of Mexico is closed and will remain closed through June 30, 2017.

Jack Montoucet
Secretary

1702#007

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Calcasieu Lake Oyster Harvest Closure

In accordance with the emergency provisions of R.S. 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 1, 2016 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of wildlife and fisheries hereby declares that the harvest of oysters from the Calcasieu Lake Public Oyster Area shall close at one-half hour after sunset on Monday, February 13, 2017.

The oyster population in Calcasieu Lake has been in decline for several years and the recommended harvest threshold in Calcasieu Lake has been exceeded. Continued commercial harvest may threaten the long-term sustainability of remaining oyster resources in this area. Protection of these remaining oyster resources from injury is in the best interest of this public oyster area.

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

Jack Montoucet
Secretary

1702#026

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Calcasieu Lake Public Oyster Area Opening

In accordance with the emergency provisions of R.S. 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 1, 2016 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if substantial oyster resources are located, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the Cheniere Reef Artificial Reef Planning Area portion of the Calcasieu Lake Public Oyster Area shall open at one-half hour before sunrise on Monday, January 23, 2017. However, this action shall not supersede public health closures.

The Cheniere Artificial Reef Planning Area has been re-designated and will be incorporated into the Calcasieu Lake Public Oyster Area effective January 20, 2017 as per the *Louisiana Administrative Code* 76:VII.537. Substantial oyster resources are located in this 87-acre area.

The Cheniere Artificial Reef Planning Area is defined by the following coordinates:

- A. 29 degrees 51 minutes 09.10 seconds,
93 degrees 17 minutes 06.96 seconds;
- B. 29 degrees 51 minutes 09.35 seconds,
93 degrees 16 minutes 50.20 seconds;
- C. 29 degrees 51 minutes 05.33 seconds,
93 degrees 16 minutes 46.06 seconds;
- D. 29 degrees 50 minutes 50.72 seconds,
93 degrees 16 minutes 45.78 seconds;
- E. 29 degrees 50 minutes 50.96 seconds,
93 degrees 17 minutes 09.62 seconds;
- F. 29 degrees 51 minutes 05.56 seconds,
93 degrees 17 minutes 09.90 seconds.

The provisions for the Cheniere Artificial Reef Planning Area season will follow those already in place for the 2016/2017 Calcasieu Lake oyster season. Those provisions are as follows.

1. Any vessel from which any person(s) takes or attempts to take oysters from the Calcasieu Lake Public Oyster Area described above shall be limited to a daily take and possession limit not to exceed 7 sacks of oysters per vessel as provided for in R.S. 56:435.1.1. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440.

2. If any person on a vessel takes or attempts to take oysters from the Calcasieu Lake Public Oyster Area described above, all oysters contained on that vessel shall be deemed to have been taken from said public oyster area from the time harvest begins until all oysters are off-loaded dockside.

3. Prior to leaving the Calcasieu Lake Public Oyster Area with oysters harvested from said oyster area: all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged.

4. All vessels located in the Calcasieu Lake Public Oyster Area during those times between one-half hour after sunset and one-half hour before sunrise shall have all oyster dredges unshackled.

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

Jack Montoucet
Secretary

1702#006

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Oyster Harvest Closure

In accordance with the emergency provisions of *Louisiana Revised Statute* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 1, 2016 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest of oysters from the West Cove portion of the Calcasieu Lake Public Oyster Area shall close at one-half hour after sunset on Tuesday, January 24, 2017.

The oyster population in Calcasieu Lake has been in decline for several years and the recommended harvest threshold in West Cove has been exceeded. Continued commercial harvest may threaten the long-term sustainability of remaining oyster resources in this area. Protection of these remaining oyster resources from injury is in the best interest of this public oyster area.

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

Jack Montoucet
Secretary

1702#009

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Partial Fall Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the department the powers, duties and authority to set shrimp seasons; and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries

Commission on August 4, 2016 which authorizes the secretary of the Department of Wildlife and Fisheries to close the fall inshore shrimp season when biological and technical data indicate the need to do so or if enforcement problems develop, the secretary of the Department of Wildlife and Fisheries does hereby declare:

The 2016 fall inshore shrimp season shall close on January 20, 2017 at official sunset, in the following inside waters located east of the Mississippi River: Lake Pontchartrain, Chef Menteur and Rigolets Passes, Lake Borgne, Mississippi Sound, Mississippi River Gulf Outlet (MRGO), and a section of the Gulf Intracoastal Waterway (GIWW) in Orleans parish from the GIWW east closure sector gate westward to the GIWW intersection with the Inner Harbor Navigation Canal. With this declaration, all inside waters will be closed to shrimping with the exception of the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)2.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) per pound except during the time-period from October 15 through the third Monday in December. Recent biological sampling conducted by the Department of Wildlife and Fisheries has indicated that average white shrimp size within these waters to be closed is smaller than the minimum possession count and this action is being taken to protect these small white shrimp and provide opportunity for growth to larger and more valuable sizes. Existing data do not currently support shrimping closures in additional state inside and outside waters. However, the Department of Wildlife and Fisheries will continue monitoring shrimp populations in these waters and close additional waters if necessary. 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.

Jack Montoucet
Secretary

1702#004

DECLARATION OF EMERGENCY

**Workforce Commission
Plumbing Board**

Plumbers—Introductory Information; Licenses; Revocation and Related Administration Proceedings; Continuing Professional Education Programs (LAC 46:LV.101, 301, 303, 304, 309, 310, 311, 312, 313, 314, 315, 316, 508, 901, 1001, 1003, 1005, and 1007)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Louisiana State Plumbing Board (board), hereby determines that adoption of an Emergency Rule for the implementation of amendments to LAC 46:LV.101, 301, 303, 304, 310, 311, 312, 313, 314, 315, 316, 901, 1001, 1003 and 1005 and adoption of §§309 and 508 are necessary to be in compliance with recent legislative changes designated as Act No. 515 of 2016. The Rule change to §§101, 301, 303, 309, 310, 312, 901 and 1001 establishes the designation of tradesman plumbers and

will also provide licensing requirements and procedures relative to the tradesman plumber classification. The Rule change to §508 establishes and maintains a registry of apprentice plumbers employed within the state of Louisiana. The addition of the tradesman plumber classification resulted in the insertion of a new Rule, causing a change in the Sections formerly numbered as §§307-313, as well as a change to cross-referencing of Sections throughout the rules. This Emergency Rule is effective on February 5, 2017.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

* * *

Tradesman Plumber—a natural person who possess the necessary qualifications and knowledge to repair existing plumbing systems and is licensed by the board to repair existing plumbing systems in one- and two-family dwellings at the direction of a master plumber, without the supervision of a journeyman plumber.

* * *

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

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

Chapter 3. Licenses

§301. Licenses and Registration Required

A...

B. No natural person shall engage in doing the work of an apprentice unless he possesses a registration or renewal thereof issued by the board as established in §508. Registered apprentices may engage in the art of plumbing only when they are under the direct, constant on-the-job supervision of a licensed journeyman plumber. Direct, constant on-the-job supervision means that a licensed journeyman plumber will supervise no more than one apprentice on only one job at a time.

C. - W. ...

X. No natural person shall engage in doing the work of a tradesman plumber unless he possesses a tradesman plumber limited license or renewal thereof issued by the board. At the direction of a master plumber licensed by the board, a tradesman plumber may independently repair existing plumbing in one- and two-family dwellings without the supervision of a journeyman plumber.

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

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

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR

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

§303. Application for License

A. - E. ...

F. An application for medical gas and vacuum systems verifiers license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he has successfully completed a course of training and related certification testing described in §315.B of this Chapter by an organization certified by the board pursuant to R.S. 37:1368(I). The applicant must furnish whatever information relevant to his experience that is requested in the application form or specifically requested by the board.

G. - I. ...

J. Applications for tradesman plumber limited license shall be completed and sworn to before a notary public by the applicant. Each applicant must possess a current apprentice registration certificate issued by the board and must furnish references from three journeyman and/or master plumbers licensed by this board, stating the period, to the best of their knowledge, that the applicant has worked at the manual labor of the trade of plumbing and is qualified to take the examination without assistance, and provide whatever other information is requested, on official board application form.

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

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

§304. Medical Gas Piping Installer License

A. - C. ...

D. An applicant for a medical gas piping installer license must attach to his application a money order or check for the appropriate fee established in §312 of this Chapter.

E. - K. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1349 (December 1995), amended LR 25:1858 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:

§309. Requirements to Take Exam for Tradesman Plumber License

A. Requirements

1. An applicant for tradesman plumber's examination shall have a current apprentice registration certificate issued by the board and have performed 4,000 hours of manual labor of plumbing under the direct, constant, on-the-job supervision of a journeyman or master plumber licensed by the board.

2. He shall have sufficient education to read and write the answers to the examination questions and shall understand the plumbing terms in regard to the installation or repair of plumbing.

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

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

5. He must attach a money order or check for the appropriate fee to the application. The fee is established in §312.

6. No tradesman plumber certificate shall permit any tradesman plumber to do the work of a journeyman plumber.

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

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

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

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

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

1. The chairman of the board shall appoint special examiners to assist these applicants in the completion of the written portion of their examinations. These special examiners will not provide any information or data to the applicants, but will only complete the written portion of any examination given to such applicants by writing the answers for the applicants as provided to the special examiner. These examiners will assist these applicants in such a manner as to prevent disclosure of answers to examination questions to any other applicant participating in the examination.

2. These applicants will be granted provisional licenses. This provisional and limited license shall permit any such applicant to engage in the work of a tradesman plumber, upon passing the special examination described herein, within the geographic areas to which the Louisiana state plumbing law has been made applicable. However, the license issued by the board shall state that the license was issued pursuant to these provisions.

3. Applicants under these special provisions will not be relieved of any other requirements or conditions associated with the issuance of a tradesman plumber's license by this board as established under the board's revised

rules and regulations and the Louisiana state plumbing laws, R.S. 37:1365-37:1378.

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

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

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

§310. Renewals

[Formerly §307]

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

B. All renewal applications received at the board's office later than midnight the last day of December will be delinquent and will require a revival fee in addition to the renewal fee. Any license not renewed by the last day of December will pay a revival fee, in addition to the renewal fee, if renewed between January 1 and March 31. Any license renewed after March 31, will require an increased revival fee, in addition to the renewal fee. The fees are set forth in §312. Any person performing the work of a tradesman plumber, journeyman plumber or a master plumber without the appropriate license issued by the board after March 31 of any year without having renewed his license from the immediately preceding year shall be subject to the special enforcement fee established in §305.H or §306.G or §309.G.

C. A person who has allowed his previously issued tradesman plumber or journeyman plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$50 per year for each year the license was not renewed up to a limit of four consecutive years. However, any such person who performs the work of a journeyman plumber without possessing a license issued by the board during this period shall be subject to the special enforcement fee established in §305.H or §309.G.

D. A person who has allowed his previously issued master plumber license, inactive master plumber license or restricted master plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of \$250 per year for each year the license was not renewed up to a limit of four consecutive years. A person who qualifies for issuance of a restricted master plumber license by virtue of R.S. 37:1368(C) or (D), as amended by Act 752 of the 1990 Regular Session, must apply for such license on or before December 31, 1991. A first time

application by any such person after December 31, 1991 will be subject to the revival fee provisions. Any person who performs the work of a master plumber without possessing a license issued by the board during any period of lapsed license or prior to applying for a restricted master plumber license as provided herein shall be subject to the special enforcement fee established in §306.G.

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

F.1. - F.2. ...

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

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

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

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

B. The employing entity shall maintain:

1. worker's compensation insurance as required by law;
2. motor vehicle bodily injury and property damage liability insurance in the minimum amount required by law;
3. comprehensive general liability and property damage insurance in a minimum amount of \$100,000, except on plumbing work or gas fitting work done in parishes under 30,000 persons in population; on buildings, residences, or structures being no more than 6,000 square feet of interior space, the minimum aggregate amount shall be \$50,000.

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

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

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

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

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

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

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

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

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

§312. Fees [Formerly §309]

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

1. initial registration fee—\$20;
2. renewal fee—\$10;
3. revival fee—\$15:
 - a. if renewed after March 31—\$30;
4. fee for N.S.F. or returned check—\$20;
5. special enforcement fee imposed under §301.B—\$500.

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

1. special examinations—\$500;
2. examinations—\$125;
3. illiterate examinations—\$150;
4. initial license fee (this fee to be paid after applicant has successfully passed the exam, in order to receive his first license)—\$40;
5. renewal fee—\$30;
6. revival fee—\$15:
 - a. if renewed after March 31—\$30;
7. temporary permits—\$75;

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

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

10. special enforcement fee imposed under §309.G—\$500.

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

1. special examinations—\$500;

2. examinations—\$125;

3. illiterate examinations—\$150;

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

5. renewal fee—\$40;

6. revival fee—\$15:

a. if renewed after March 31—\$30;

7. temporary permits—\$75;

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

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

10. special enforcement fee imposed under §305.H—\$500.

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

1. special examinations—\$500;

2. examinations—\$100;

3. initial license fee—\$180;

4. renewal fee—\$180;

5. revival fee—\$60:

a. if renewed after March 31—\$120;

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

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

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

9. inactive master plumber fee—\$30;

10. fee for conversion of inactive master plumber license to active master plumber—\$150;

11. employing entity redesignation fee—\$150;

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

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

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

1. special examinations—\$500;

2. examination—\$95;

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

4. renewal fee—\$30;

5. revival fee—\$10:

a. if renewed after March 31—\$20;

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

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

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

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

1. special examinations—\$500;

2. examination—\$95;

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

4. renewal fee—\$30;

5. revival fee—\$10:

a. if renewed after March 31—\$20;

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

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

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

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

1. application fee—\$200;

2. renewal fee—\$200;

3. revival fee—\$65:

a. if renewed after March 31—\$130.

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

1. special examinations—\$500;

2. examinations—\$125;

3. ADA accommodation examinations—\$150;

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

5. renewal fee—\$40;

6. revival fee—\$15:

a. if renewed after March 31—\$30;

7. temporary permit—\$75;

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

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

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

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

1. special examinations—\$500;

2. examinations—\$100;

3. initial license fee—\$180;

4. renewal fee—\$180;

5. revival fee—\$60:

a. if renewed after March 31—\$120;

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

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

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

9. inactive master gas fitter fee—\$30;

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

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

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

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

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

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

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

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

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

C. As authorized by R.S. 37:1368(H), the board shall recognize and certify certain programs of education and training of water supply protection specialist offered by private or public organizations or institutions compliant with *ASSE International, Cross-Connection Control Professional Qualifications Standard ASSE Series 5000* or a nationally recognized, board-approved program. A journeyman or master plumber licensed by this board who successfully completes any such program shall qualify for admission to an examination offered under §313.A of these regulations. Any such organization must satisfy the board that its program or programs includes training and testing as specified in the *ASSE International, Cross-Connection Control Professional Qualifications Standard ASSE Series 5000*, or a nationally-recognized, board-approved program.

D. Courses of instruction defined in Subsection C of this Section must be provided by a person or persons meeting the credentials and requirements of *ASSE Series 5000*, or a nationally-recognized board-approved program.

E. To be eligible for board certification pursuant to R.S. 37:1368(H), an interested organization providing water supply protection specialist training and education must complete a written application on a form or forms supplied by the board. The board shall be entitled to receive timely information on the program or programs administered by such organization and background of instructors upon request at any time. The board, acting through its representatives, may also inspect the facility and observe the actual training and education programs used and offered by

such organization. Failure to cooperate with the board and its representatives may be grounds for denial or withdrawal of board certification of any such organization. The board may investigate complaints concerning such programs. Adverse administrative action affecting an organization's application for certification or its continued status as an organization certified by the board pursuant to R.S. 37:1368(H) will be subject to the Administrative Procedure Act.

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

G. An applicant for a water supply protection specialist endorsement must attach to his application a money order or check for the appropriate fee established in §312 of this Chapter.

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

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

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

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

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

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

§314. Integrity of Examination [Formerly §311]

A. The board may reject an examination for any license or endorsement under this Chapter, if the board determines that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize board approved resource or industry code materials or permitted by authorized third-party examiners. Examinees determined to

have violated the prohibitions of this Section shall be notified in writing and, upon request by the examinee or at the direction of the executive director, an informal conference before the executive director or committee appointed by the board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

B. The board is empowered to act upon reports of violation of Subsection A of this Section by examinees received from private or public organizations recognized as examiners under §§304.G, 306.F, 313.F, or 310.B and impose sanctions as described in Subsection A of this Section.

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

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

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

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

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

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

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

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

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

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

D. An applicant for a medical gas and vacuum systems verifier license must attach to his application a money order or check for the appropriate fees established in §312 of this Chapter.

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

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

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

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

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

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

B. As a condition for licensing and renewal thereof, and subject to the disciplinary powers of the board under R.S.

37:1378(3) and (8), any person licensed by the board as a medical gas and vacuum systems verifier shall be obligated to cooperate with the Louisiana state fire marshal and his agents in connection with his regulation of medical gas piping installation and systems verification.

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

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

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

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

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

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

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

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

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

Chapter 5. The Board

§508. Duties of the Board

A. The board shall recognize the system of qualification of registration of apprentices as administered by joint and nonjoint apprenticeship committees approved by the state of Louisiana.

B. Not later than January 1, 2017, the board shall establish and maintain a registry of all apprentice plumbers employed in Louisiana and shall issue a certificate to all registrants under R.S. 37:1366.

C. The board shall assist the Board of Supervisors of Community and Technical Colleges in developing training, program, and course requirements that will prepare individuals to meet the qualifications established by the board for a tradesman plumber.

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

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

Chapter 9. Revocation and Related Administration Proceedings

§901. Revocation, Suspension and Probation Procedures

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

B. - K.3.a. ...

b. The definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order. The reinstatement fee shall not exceed the special enforcement fee under §305.H, §306.G, or §309.G.

c. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee, which shall not exceed the amount established as the special enforcement fee under §305.H, §306.G, or §309.G.

L. ...

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

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

Chapter 10. Continuing Professional Education Programs

§1001. Tradesman, Journeyman and Master Plumbers

A. CPE Requirement

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

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

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

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

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

B. Course Materials

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

2. The course materials will provide the basis for a minimum of four classroom hours of study for tradesman plumbers and journeyman plumbers and a minimum of six hours for master plumbers. Two of the hours will be in the subjects of health protection, consumer protection or environmental protection, with the two of the remaining hours covering subjects which shall include information concerning the Act, Louisiana State Plumbing Board rules, current industry practices and codes, and subjects from lists of approved subjects published by the Louisiana State Plumbing Board. Two hours of the materials for master plumbers will be on business topics approved by the Louisiana State Plumbing Board.

3. - 19. ...

C. Course Form and Content

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of tradesman, journeymen and master licenses issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

C.2. - D.9. ...

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required for renewal of tradesman plumber, journeyman plumber and master plumber licenses. Louisiana State Plumbing Board

approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

1.a. - 6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2068 (September 2004), amended LR 37:2440 (August 2011), amended by the Workforce Commission, Plumbing Board LR 43:

§1003. Water Supply Protection Specialists Recertification Requirements

A. Effective January 1, 2015, in addition to the yearly renewal of their endorsement, every three years all persons holding a water supply protection specialist endorsement issued by the Louisiana State Plumbing Board are required to show proof of attendance at a board-approved industry related recertification program compliant with the guidelines of the American Society of Sanitary Engineers (ASSE) *Series 5000* as defined in §313.D. Such recertification shall satisfy the endorsee's obligation to maintain continuing professional education relative to a water supply protection specialist endorsement, but shall not diminish or affect endorsee's obligation to fulfill continuing professional education requirements for journeyman or master plumbing licenses or medical gas installer or verifier endorsements, if applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2071 (September 2004), amended LR 37:905 (March 2011), LR 37:2441 (August 2011), amended by the Workforce Commission, Plumbing Board, LR 41:762 (April 2015), LR 43:

§1005. Medical Gas Piping Installers and Medical Gas Verifiers

A. CPE Requirement

1. Effective January 1, 2016, in addition to the yearly renewal of their license, all persons seeking to renew a medical as piping installer or medical gas verifier license issued by the Louisiana State Plumbing Board are required to show proof of attendance at a board-approved industry related recertification program, every NFPA 99 code cycle, compliant with the guidelines of the American Society of Sanitary Engineering International (ASSE) *Professional Qualification Standards Series 6000/6010 for Medical Gas Systems Installers* or *6030 for Medical Gas Systems Verifiers* or its equivalent as defined in §304 and §315. Such recertification shall satisfy the endorsee's obligation to maintain continuing professional education relative to the medical gas systems installer and medical gas systems verifier, but shall not diminish or affect licensee's obligation to fulfill continuing professional education requirements for journeyman or master plumbing licenses or water supply protection specialist endorsement, if applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2074 (September 2004), amended LR 37:905 (March 2011), LR 37:2441 (August 2011), amended by the Workforce Commission, Plumbing Board, LR 42:578 (April 2016), LR 43:

§1007. Effective Date

A. The provisions of this Chapter shall become effective on January 1, 2006, subject to continuance of this date by the Louisiana State Plumbing Board, as noticed in the *Louisiana Register*.

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

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 30:2077 (September 2004), amended by the Workforce Commission, Plumbing Board, LR 43:

Ashley Jones Tullier
Executive Director

1702#061

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, the Department of Agriculture and Forestry (“department”) has adopted the Rule set forth below, expanding a previously established quarantine for the following pest: emerald ash borer (“EAB”), *Agrilus planipennis* Fairmaire. This Rule expands the quarantine to include Lincoln and Union Parishes.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was \$62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana’s forests and forestry/wood products industries generated an output industry production value of \$10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state’s economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana’s commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state’s commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state’s economy and to its private citizens. The expansion of the quarantined area set forth in LAC 7:XV.167 is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana’s citizens and forests, the state’s commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry and state entomologist hereby exercise 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 expanding the quarantine in LAC 7:XV.167 to include Lincoln and Union Parishes.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter F. Emerald Ash Borer Quarantine

§167. Emerald Ash Borer Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the insect emerald ash borer (EAB), *Agrilus planipennis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantined areas in this state include:

1. the entire parishes of Bossier, Claiborne, Lincoln, Union and Webster;
2. a declaration of quarantine for EAB 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*.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652 and 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:245 (February 2017).

Mike Strain, DVM
Commissioner

1702#032

RULE

Department of Children and Family Services Licensing Section

Residential Home (LAC 67:V.Chapter 71)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V.Chapter 71, Child Residential Care, Class A.

Pursuant to section 2 of Act 502 of the 2016 Regular Legislative Session, the department shall adopt rules in accordance with the Administrative Procedure Act effective August 1, 2016. The Rule allows the department to revise the child residential licensing standards to incorporate standards to protect the safety and well-being of children residing in residential homes with their parents and to protect the health, safety, and well-being of the children and residents of the state who are in out-of-home care on a regular or consistent basis.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 71. Child Residential Care, Class A

§7101. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children and residents of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of chapter 14 of title 46 of the *Louisiana Revised Statutes* to establish statewide minimum standards for the safety and well-being of children and residents, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care by specialized providers and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:804 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017).

§7103. Authority

A. Legislative Provisions

1. The state of Louisiana, Department of Children and Family Services, is charged with the responsibility of developing and publishing standards for the licensing of residential homes.

a. The licensing authority of the Department of Children and Family Services is established by R.S. 46:1401 et seq. and R.S. 46:51 which mandate the licensing of all residential homes. A residential home is any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Subparagraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility. The age requirement may be exceeded as stipulated in R.S. 46:1403.1 which states that, "...notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(1), a child housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a general education development (GED) course, and any other program offered by the residential home". In addition, the R.S. 46:1403.1(B) further stipulates that, "Notwithstanding Subsection A of this Section and any other provision of law to the contrary, including but not limited to R.S. 46:1403(1), a child housed at a residential home that does not receive Title IV-E funding pursuant to 42 USC 670 et seq., may remain at such home until his twenty-first birthday to complete any educational course that he began at such facility, including but not limited to a General Education Development course, and any other program offered by the residential home."

B. Penalties. As mandated by R.S. 46:1421, whoever operates as a specialized provider as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than \$1,000 for each day of such offense.

C. Waiver Request

1. The secretary of the department, in specific instances, may waive compliance with a standard, as long as the health, safety, and well-being of the staff and/or the health, safety, rights, or well-being of residents or children of residents are not imperiled. Standards shall be waived only when the secretary determines that the economic impact is sufficient to make compliance impractical.

2. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested; and

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested.

3. The request for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. A waiver is issued at the discretion of the secretary and continues in effect at her pleasure. It may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child of a resident or resident is imperiled), or upon her determination that continuance of a waiver is no longer in the best interest of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017).

§7105. Definitions

A. As used in this Chapter:

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the resident or child of a resident:

a. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident or child of a resident by a parent or any other person;

b. the exploitation or overwork of a resident or child of a resident by a parent or any other person; and

c. the involvement of the resident or child of a resident in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the resident's or child of a resident's sexual involvement with any other person or of the resident's or child of a resident's involvement in pornographic displays or any other involvement of a resident or child of a resident in sexual activity constituting a crime under the laws of this state.

Affiliate—

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof;

c. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

d. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

e. director of any such.

Age or Developmentally-Appropriate Activities or Items—activities or items that are generally accepted as suitable for an individual of the same chronological age or level of maturity or that are determined to be developmentally appropriate for an individual, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific individual, activities or items that are suitable for the individual based on the developmental stages attained by the individual with respect to the cognitive, emotional, physical, and behavioral capacities of the individual.

Behavior Support—the entire spectrum of activities from proactive and planned use of the environment, routines, and structure of the particular setting to less restrictive interventions such as positive reinforcement, verbal interventions, de-escalation techniques, and therapeutic activities that are conducive to each resident's development of positive behavior.

Behavior Support Plan—a written document that addresses the holistic needs of the resident and includes the resident's coping strategies, de-escalation preferences, and preferred intervention methods.

Child—a person who has not reached age 18 or otherwise legally emancipated.

Complaint—an allegation that any person is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any resident or child of a resident who is residing in a residential home.

Criminal Background Check—a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the state Department of Public Safety and Corrections, or any other repository of criminal history records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.

DAL—the Division of Administrative Law.

Debriefing—a process by which information is gathered from all involved parties after the use of personal restraints or seclusion that includes an evaluation of the incident,

documentation detailing the events leading up to the incident, and ways to avoid such incidents in the future.

Department (DCFS)—Department of Children and Family Services.

Direct Care Worker—a person counted in the resident or child/staff ratio, whose duties include the direct care, supervision, guidance, and protection of a resident or child of a resident. This does not include a contract service provider who provides a specific type of service to the operation for a limited number of hours per week or month or works with one particular resident or child of a resident.

Direct Supervision—the function of observing, overseeing, and guiding a resident or child of a resident and/or group of residents or children of residents. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires physical presence, accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Discipline—the ongoing positive process of helping children of residents or residents develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

Disqualification Period—the prescriptive period during which the department shall not process an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Documentation—written evidence or proof, signed and dated by the parties involved (director, residents, staff, etc.), and available for review.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Employee—all full- or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children of residents or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

Facility—residential home as defined in R.S. 46:1403.

Human Service Field—the field of employment similar or related to social services such as social work, psychology, sociology, special education, rehabilitation counseling, child development, guidance and counseling, divinity, education, juvenile justice and/or corrections through which a person gains experience in providing services to the public and/or private clients that serves to meet the years of experience required for a job as specified on the job description for that position.

Independent Contractor—any person who renders professional, therapeutic, or enrichment services to children of residents or residents such as educational consulting, athletic, or artistic services within a facility, whose services are not integral to either the operation of the facility or to the care and supervision of residents or children of residents. Independent contractors may include, but are not limited to

dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors. A person shall not be deemed an independent contractor if he is a staff person of the facility.

Individual Owner—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of acquets and gains.

Infant—a child that has not yet reached his first birthday.

Injury of Unknown Origin—an injury where the source of the injury was not observed by any person or the source of the injury could not be explained by the resident or child of a resident and the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

Interdiction—a legal restraint upon a person incapable of managing his estate, because of mental incapacity, from signing any deed or doing any act to his own prejudice, without the consent of his curator or interdictor.

Juridical Entity—corporation, partnership, limited-liability company, church, university, or governmental entity.

Legal Guardian—person who has the legal authority and the corresponding duty to care for the personal and property interest of another person.

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the resident or child of a resident and the responsibility for the resident's or child of a resident's general welfare until he reaches the age of majority, subject to any rights possessed by the parents. It shall include the rights and responsibilities of legal custody.

License—any license issued by the department to operate a facility as defined in R.S. 46:1403.

Licensing Section—DCFS Licensing Section.

Lifebook—a record of a resident's or child of a resident's life which chronicles accomplishments, milestones, and important people in their lives through pictures, words, artwork, and memorabilia.

Mandated Reporter—professionals who may work with children of residents or residents in the course of their professional duties and who consequently are required to report all suspected cases of abuse and neglect. This includes any person who provides training and supervision of a child of a resident or resident, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential homes, a licensed or unlicensed day care provider, any individual who provides such services to a child of a resident or resident, or any other person made a mandatory reporter under article 603 of the *Children's Code* or other applicable law.

Medication—all drugs administered internally and/or externally, whether over-the-counter or prescribed.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child of a resident or resident with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of an individual under the age of 18, as a result of which the individual's physical, mental, or emotional health and safety is substantially threatened or impaired.

Operator—owner of a residential home.

Owner—the individual or juridical entity who exercises ownership over a residential home, whether such ownership is direct or indirect.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

a. *Direct Ownership*—when a natural person is the immediate owner of a residential home, i.e., exercising control personally rather than through a juridical entity.

b. *Indirect Ownership*—when the immediate owner is a juridical entity.

Personal Restraint—a type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a resident's body in order to control physical activity. Personal restraint includes escorting, which is when a staff uses physical force to move or direct a resident who physically resists moving with the staff to another location.

Program Director—the person with authority and responsibility for the on-site, daily implementation, and supervision of the overall facility's operation.

Provider—any facility, organization, agency, institution, program, or person licensed by the department to provide services to children of residents or residents which includes all owners of a facility, including the program director of such facility.

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a resident or child of a resident in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a resident or child of a resident while at the same time encouraging the emotional and developmental growth of the resident or child of a resident.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the resident or child of a resident in age or developmentally-appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a resident or child of a resident and knowledge and skills relating to applying the standard to decisions such as whether to allow the resident or child of a resident to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the

signing of permission slips and arranging of transportation for the resident or child of a resident to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor resulting in a justified and/or valid finding currently recorded on the state central registry.

Related or *Relative*—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Resident—an individual who receives full-time care at a residential home and whose parents do not live in the same facility nor is the individual related to the owner of the facility.

Residential Home—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Paragraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility.

Rest Time—period between 9 p.m. and 6 a.m. when residents are either asleep or are lying down in their own beds with the intent of going to sleep. Residents may be reading, listening to music, or other individual quiet activities that promote said sleep time.

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a resident or child(ren) of the resident.

Seclusion—involuntary confinement of a resident away from other residents, due to imminent risk of harm to self or others, in a room which the resident is physically prevented from leaving.

Service Plan—a written plan of action for residents usually developed between the family, resident, social worker, and other service providers, that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Staff—all full- or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children of residents or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of an individual under the age of 18 by DCFS.

Substantial Bodily Harm—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Supervision—the function of observing, overseeing, and guiding a resident or child of a resident and/or group of residents or children of residents. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Time-Out—a strategy used to teach individuals to calm themselves, during which a child of a resident or resident is not given the opportunity to receive positive reinforcement and/or participate in the current routine or activity until he/she is less agitated.

Type IV License—license held by any public- or privately-owned residential home.

Unlicensed Operation—operation of a residential home, at any location, without a valid, current license issued by the department for that location.

Volunteer—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the residents or children of residents.

Waiver—an exemption granted by the secretary of the department from compliance with a standard that will not place the resident, child of a resident, or staff member at risk.

Youth—a person not less than 16 years of age nor older than 21 years of age in accordance with R.S. 46:1403.1(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017).

§7107. Licensing Requirements

A. General Provisions

1. New buildings shall be designed to appear physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density, and population. A residential home shall not occupy any portion of a building licensed by another agency. A residential home shall be a self-contained facility. The mixing of differing populations is prohibited.

2. Before beginning operation, it is mandatory to obtain a license from the department.

3. All new construction or renovation of a facility requires approval from agencies listed in Subparagraphs B.2.b-f of this Section.

4. In addition, all facilities shall comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

5. Documentation of a satisfactory fingerprint based criminal background check from Louisiana State Police shall be submitted for all owners of a residential home, as required by R.S. 46:51.2 and R.S. 15:587.1. No person with a criminal conviction for, or a plea of guilty or *nolo contendere* to, any offense included in R.S. 15:587.1, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a

residential home. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

- a. individual ownership—individual and spouse;
- b. partnership—all limited or general partners and managers as verified on the Secretary of State's website;
- c. church-owned, governmental entity, or university owned—any clergy and/or board member that is present in the home;
- d. corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:
 - i. has unsupervised access to the residents or children of residents in the home;
 - ii. is present in the home;
 - iii. makes decisions regarding the day-to-day operations of the home;
 - iv. hires and/or fires staff including the program director;
 - v. oversees residential staff and/or conducts personnel evaluations of the staff; and/or
 - vi. writes the facility's policies and procedures;
- e. corporation—if an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed in §7107.A.5.d.i-vi., a signed, notarized attestation form is acceptable in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

6. Documentation of a state central registry disclosure form (SCR-1) shall be submitted for all owners as required by R.S. 46:1414.1. SCR-1 forms shall be dated no earlier than 30 days before the application has been received by the Licensing Section. This information shall be reported prior to the owner being on the premises of the residential home,

shall be updated annually at the time of licensure renewal, at any time upon the request of DCFCS, and within 24 hours or no longer than the next business day, whichever is shorter, of any owner receiving notice of a justified (valid) finding of child abuse and/or neglect against them. Any current owner of a residential home is prohibited from owning, operating, participating in the governance of or working in a residential home, if they have a justified (valid) finding of child abuse and/or neglect against them. If information is known or received by DCFCS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child/youth/resident, the individual shall have a determination by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents in order to continue to operate a residential home.

a. Within 24 hours or no later than the next business day, whichever is shorter, of current owners receiving notice of a justified (valid) finding of child abuse and/or neglect against them, an updated state central registry disclosure form (SCR 1) shall be completed by the owner and submitted to Licensing section management staff as required by R.S. 46:1414.1. The owner must request a risk evaluation assessment in accordance with LAC 67:1.305 within 10 calendar days from completion of the state central registry disclosure form or the license shall be revoked. Immediately upon the knowledge that a justified (valid) finding has been issued by DCFCS, the owner, at any and all times when he/she is in the presence of a child of a resident/youth/resident, shall be directly supervised by a paid staff (employee) of the residential home. The employee responsible for supervising the owner must have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect. Under no circumstances may the owner with the justified finding be left alone and unsupervised with a child of a resident/youth/resident pending the disposition of the Risk Evaluation Panel or the Division of Administrative Law determination that the owner does not pose a risk to any child of a resident/youth/resident in care. An owner supervised by an employee who does not have a satisfactory disclosure form on file as provided in this Subsection shall be deemed to be alone and unsupervised.

i. Any owner with a justified (valid) finding of abuse and/or neglect on the state central registry must submit, together with the SCR 1 required above, a written, signed statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child of a resident/youth/resident and that they shall be directly supervised by a paid staff (employee) of the residential home, who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect on the state central registry.

ii. If the Risk Evaluation Panel determines that the owner does pose a risk to children/youth/residents and

the individual does not appeal the determination within the required timeframe, the owner may close the business or the license shall be revoked.

iii. If the Risk Evaluation Panel determines that the owner poses a risk to children/youth/residents and the individual appeals the determination to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision when in the presence of a child/youth/resident. Supervision must continue until receipt of a ruling from the Division of Administrative Law that the owner does not pose a risk to children/youth/residents.

iv. If the Division of Administrative Law (DAL) upholds the Risk Evaluation Panel's determination that the individual poses a risk to children/youth/residents, the owner may voluntarily close the business or the license shall be revoked.

b. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form at the time of application to the DCFS Licensing Section. SCR 1 forms shall be dated no earlier than 30 days of the application being received by the Licensing Section. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, the application shall be denied unless the owner requests a risk evaluation assessment on the state central registry risk evaluation request form (SCR 2) within the required timeframe. DCFS will resume the licensure process when the owner provides the written determination by the Risk Evaluation Panel or the Division of Administrative Law that they do not pose a risk to children/youth/residents.

i. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children/youth/residents and the individual does not appeal the determination within the required timeframe, the prospective owner shall withdraw the application in writing immediately or the application shall be denied.

ii. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children/youth/residents and the individual appeals the determination to the Division of Administrative Law within the required timeframe, the department shall not proceed with the licensure process until a ruling is made by the Division of Administrative Law that the owner does not pose a risk to children/youth/residents.

iii. If the Division of Administrative Law upholds the Risk Evaluation Panel determination that the individual poses a risk to children/youth/residents, the prospective owner shall withdraw the application in writing within 10 business days of the mailing of the DAL decision or the application shall be denied.

c. Any information received or knowledge acquired that a current or prospective owner, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

d. Any state central registry disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a residential home licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

7. Providers and staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a residential home as defined in R.S. 46:1403.

8. The owner or program director of a residential home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the residential home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

9. The owner or director of a residential home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the residential home as required by R.S. 14:91.1. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

10. Providers with live-in staff may allow children of staff members to reside with their parents in the private staff quarters of the residential home.

11. Provider nor staff shall permit a resident, age 18 years or older, that has been convicted of, pled guilty, or nolo contendere to any offense listed in R.S. 15:587.1. or to any offense involving a juvenile victim to remain on the premises of the residential home.

B. Initial Licensing Application Process

1. An initial application for licensing as a residential home shall be obtained from the department.

Department of Children and Family Services
Licensing Section
P.O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.DCFS.louisiana.gov

2. After the residential home's location has been established, a completed initial license application packet for an applicant shall be submitted to and approved by the department prior to an applicant providing services. The completed initial licensing packet shall include:

- a. completed application and non-refundable fee;
- b. current Office of State Fire Marshal approval for occupancy;
- c. current Office of Public Health, Sanitarian Services approval;
- d. current city fire department approval (if applicable);
- e. city or parish building permit office approval (if applicable);
- f. local zoning approval (if applicable);
- g. copy of proof of current general liability and current property insurance for facility;
- h. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;
- i. organizational chart or equivalent list of staff titles and supervisory chain of command;

- j. verification of experience and educational requirements for the program director ;
- k. verification of experience and educational requirements for the service plan manager ;
- l. list of consultant/contract staff to include name, contact info, and responsibilities;
- m. list of all staff to include staff's name and position;
- n. a floor sketch or drawing of the premises to be licensed;
- o. any other documentation or information required by the department for licensure;
- p. documentation of a Louisiana State Police fingerprint based satisfactory criminal record check for all staff including all owners of the facility as noted in §7107.A.5, as required by R.S. 46:51.2 and 15:587.1. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section;
- q. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners as noted in §7107.A.6 (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents;
- r. current approval from the Department of Education, if educational services will be provided on-site for residents;
- s. copy of the completed reasonable and prudent parent authorized representative form;
- t. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and
- u. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 45 calendar days to submit the additional requested information. If the department does not receive the additional requested information within the 45 calendar days, the application will be closed and the fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a residential home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

4. Once the department has determined the initial licensing packet is complete, Licensing Section staff will attempt to contact the applicant to schedule an initial inspection; however it is the applicant's responsibility to coordinate the initial inspection. If an applicant fails to schedule the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed and fee forfeited.

5. After an initial licensing application is closed, an applicant who is still interested in becoming a residential

home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

6. After the completed application and non-refundable fee have been received by the Licensing Section, Licensing Section staff will notify the Office of State Fire Marshal, Office of City Fire Department (if applicable), and Office of Public Health that an application for licensure has been submitted. However, it is the applicant's responsibility to request and obtain these inspections and approvals.

C. Initial Licensing Inspection

1. Prior to the initial license being issued to the residential home provider, an initial licensing inspection shall be conducted on-site at the residential home to assure compliance with all licensing standards. The initial licensing inspection shall be an announced inspection. No resident shall be provided services by the residential home provider until the initial licensing inspection has been performed and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. In the event the initial licensing inspection finds the residential home provider is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. In the event the initial licensing inspection finds the residential home provider is noncompliant with any licensing laws or standards, or any other required statutes, laws, ordinances, rules, or regulations, the department may conduct a follow-up inspection to verify compliance with all licensing laws or standards and other required statutes, laws, ordinances, rules, or regulations.

4. The application shall be denied if the department is unable to issue a license within 180 calendar days of receipt of the completed initial application packet due to provider non-compliance.

5. When issued, residential home provider licenses shall specify the licensed bed capacity. Children of residents shall not be counted in the facility's licensed capacity; however the license will note if the provider is licensed to provide services to children of residents.

D. Fees and Notification of Changes

1. All fees are non-refundable and shall be paid by money order, certified check, or electronic payment, if available, made payable to DCFS-Licensing Section.

2. In accordance with R.S 46:1406(E), there shall be a non-refundable fee as prescribed by the department for a license or renewed license, payable to the department with the initial licensing application, CHOL application, CHOW application, and prior to the last day of the anniversary month of the license as listed below, based on capacity.

4 to 6 Residents	7 to 15 Residents	16 or More Residents
\$400	\$500	\$600

NOTE: Children of residents are not counted in the facility's licensed capacity.

3. A non-refundable fee of \$5 is required to issue a duplicate license with no changes.

4. The provider shall notify the Licensing Section on a DCFS-approved change of information form prior to making changes to residential operations as noted below. For changes that require the issuance of a new replacement license, the provider shall be required to submit a non-refundable change fee of \$25 in addition to the change of information form. There is no fee charged when the request is noted on the renewal application; however, the change shall not be effective until the first day of the month following the expiration of the current license.

a. Removal of a service or reduction in capacity is effective upon receipt of a completed change of information form.

b. A capacity increase is effective when the following are received and approved by the Licensing Section and the new space shall not be utilized until approval has been granted by the Licensing Section:

- i. completed change of information form;
- ii. \$25 non-refundable change fee; an additional fee may be required in accordance with Paragraph D.2 of this Section based on new capacity;
- iii. current Office of State Fire Marshal approval for new space;
- iv. current Office of Public Health approval for new space;
- v. current city fire approval for new space (if applicable); and
- vi. measurement of the additional space by Licensing Section staff.

c. Name change is effective when the following are received by the Licensing Section:

- i. completed change of information form; and
- ii. \$25 non-refundable change fee.

d. Age range change for residents is effective when the following are received and approved by the Licensing Section:

- i. completed change of information form; and
- ii. \$25 non-refundable change fee.

e. Change to add services provided (acceptance of children of residents) is effective when the following is received and approved by the Licensing Section:

- i. completed change of information form;
- ii. \$25 non-refundable change fee;
- iii. current Office of State Fire Marshal approval form noting acceptance of infants or children of residents;
- iv. current Office of Public Health approval noting acceptance of infants or children of residents;
- v. inspection by the Licensing Section noting compliance with regulations regarding the children of residents.

f. Change in program director is effective when the following is received and approved by the Licensing Section:

- i. completed change of information form;
- ii. documentation of program director's qualifications as noted in §7111.A.3.a; and
- iii. three signed letters of reference dated within three months prior to hire attesting affirmatively to his/her character, qualifications, and suitability to manage the program.

5. If a provider is found to be non-compliant with regard to a particular service offered or with a particular age group of children of residents/residents, DCFS may require the provider to cease providing the service and/or restrict the age of the children of residents/residents for which the provider is licensed to provide services.

6. All new construction or renovation of a facility requires approval from agencies listed in Subparagraph B.2.b-f of this Section and the Licensing Section.

7. A license is not transferable to another person, juridical entity, or location.

E. Renewal of License

1. The license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:

- a. current Office of State Fire Marshal approval for occupancy;
- b. current Office of Public Health, Sanitarian Services approval;
- c. current city fire department approval (if applicable);
- d. copy of proof of current general liability and current property insurance for facility;
- e. copy of proof of current insurance for vehicle(s) used to transport residents and children of residents;
- f. copy of a criminal background clearance or attestation forms as referenced in §7107.A.5 for all owners and §7111.B.2.a.ii for program directors as required by R.S. 46:51.2 and 15.587.1; and
- g. copy of current state central registry disclosure forms (SCR 1) for all owners and program directors.

3. Prior to renewing the facility license, an on-site inspection shall be conducted to ensure compliance with all licensing laws and standards. If the facility is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing inspection finds the facility is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of the inspection or receipt of the deficiencies if mailed or emailed. The corrective action plan shall include a description of how the deficiency shall be corrected, the date by which correction(s) shall be completed, an outline of the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. Failure to submit an approved corrective action plan timely shall be grounds for revocation or non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration

of the license, the department may issue an extension of the license not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license may be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

F. Change of Location (CHOL) and Change of Ownership (CHOW)

1. Change of Location (CHOL)

a. When a provider changes the physical location of the residential home, it is considered a new operation and a new license is required prior to opening. In accordance with R.S. 46:1406, the license at the existing location shall not transfer to the new residential home location.

b. After the residential home's new location has been determined, a complete CHOL licensing packet shall be submitted to the Licensing Section. A complete CHOL licensing packet shall include:

- i. completed application and non-refundable fee;
- ii. current Office of State Fire Marshal approval for occupancy;
- iii. current Office of Public Health, Sanitarian Services approval;
- iv. current city fire department approval (if applicable);
- v. city or parish building permit office approval (if applicable);
- vi. local zoning approval (if applicable);
- vii. copy of proof of current general liability and current property insurance for facility;
- viii. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;
- ix. organizational chart or equivalent list of staff titles and supervisory chain of command;
- x. verification of experience and educational requirements for the program director (if applicable);
- xi. verification of experience and educational requirements for the service plan manager (if applicable);
- xii. list of consultant/contract staff to include name, contact info, and responsibilities;
- xiii. list of all staff to include staff's name and position;
- xiv. a floor sketch or drawing of the premises to be licensed;
- xv. any other documentation or information required by the department for licensure;
- xvi. documentation of a Louisiana State Police fingerprint based satisfactory criminal record check for all staff including all owners of the facility, as required by R.S. 46:51.2 and 15:587.1;
- xvii. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents;

xviii. current approval from the Department of Education, if educational services will be provided on-site; and

xix. current completed reasonable and prudent parent authorized representative form as referenced in §7111.A.10.

c. CHOL inspection will be conducted between the currently licensed and new location to determine compliance with all standards. The inspection at the new location shall be to verify compliance with all licensing standards with the exception of staff and children of residents/residents records that will be transferred. After closure of the old location and prior to the services being provided at the new location, all staff's, resident's, and children of resident's records shall be transferred to the new location.

d. Services shall not be provided simultaneously at both locations.

e. The license for the new location may be effective upon receipt of all items listed in Paragraph F.1 of this Section with the approval of DCFS, but not prior to the first day operations begin at the new location.

f. The license for the old location shall be null and void on the last day services were provided at that location, but no later than the effective date of the new location's license. Provider shall submit documentation noting the last day services will be provided at the old location.

2. Change of Ownership (CHOW)

a. Any of the following constitutes a change of ownership for licensing purposes:

- i. change in the federal tax ID number;
- ii. change in the state tax ID number;
- iii. change in profit status;
- iv. any transfer of the business from an individual or juridical entity to any other individual or juridical entity;
- v. termination of services by one owner and beginning of services by a different owner without a break in services to the children of residents/residents; and/or
- vi. addition of an individual to the existing ownership (individual or partnership) on file with the Licensing Section.

3. Change of Ownership (CHOW) Procedures

a. When a residential home changes ownership, the current license is not transferable. Prior to the ownership change and in order for a new license to be issued, the new owner shall submit a CHOW application packet containing the following:

- i. completed application form with a non-refundable licensing fee as noted in Paragraph D.2 of this Section payable by money order, certified check, or electronic payment, if available, made payable to DCFS-Licensing Section;
- ii. current Office of State Fire Marshal approval for occupancy;
- iii. current Office of Public Health, Sanitarian Services approval;
- iv. current city fire department approval (if applicable);
- v. city or parish building permit office approval (if applicable);
- vi. local zoning approval (if applicable);

vii. copy of proof of current general liability and current property insurance for facility in name of new owner;

viii. copy of current proof of insurance in name of new owner for vehicle(s) used to transport residents or children of residents;

ix. organizational chart or equivalent list of staff titles and supervisory chain of command;

x. verification of experience and educational requirements for the program director;

xi. verification of experience and educational requirements for the service plan manager;

xii. list of consultant/contract staff to include name, contact info, and responsibilities;

xiii. list of all staff to include staff's name and position;

xiv. a floor sketch or drawing of the premises to be licensed;

xv. any other documentation or information required by the department for licensure;

xvi. documentation of a Louisiana State Police fingerprint-based satisfactory criminal record clearance for all staff including owners. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section. The prior owner's documentation of a satisfactory criminal background check for staff and/or owners is not transferrable;

xvii. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents. The prior owner's documentation of state central registry disclosure forms for staff and/or owners is not transferrable;

xviii. current approval from the Department of Education, if educational services will be provided on-site for residents;

xix. copy of the current completed reasonable and prudent parent authorized representative form;

xx. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and

xxi. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

b. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section on or prior to the sixtieth day in order for their license to be extended. If approvals or extensions are not submitted to the Licensing Section prior to the sixtieth day, the license shall be revoked.

c. A licensing inspection shall be conducted within 60 calendar days to verify compliance with the licensing standards.

d. All staff/children of residents'/resident's information shall be updated under the new ownership as required in LAC 67:V.7111.A.2.c, A.5, A.7, B.2, and B.4.b-c prior to or on the last day services are provided by the existing owner.

e. If all information in Paragraph F.3 of this Section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with Paragraphs B.2-6 of this Section.

f. In the event of a change of ownership, the resident's and children of resident's records shall remain with the new provider.

g. A residential home facing adverse action shall not be eligible for a CHOW. An application involving a residential home facing adverse action shall be treated as an initial application rather than a change of ownership application.

4. Change in Ownership Structure

a. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required.

i. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

(a). if individual ownership, upon death of the spouse;

(b). if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner.

b. The change of information form shall be submitted to the Licensing Section within seven calendar days of the change:

i. if individual ownership, undergoing a separation or divorce until a judicial termination of the community aqets and gains, signed by both parties;

ii. change in board members for churches, corporations, limited liability companies, universities, or governmental entities;

iii. any removal of a person from the existing organizational structure under which the residential home is currently licensed.

G. Denial, Revocation, or Non-Renewal of License

1. Even if a facility is otherwise in compliance with these standards, an application for a license may be denied, or a license revoked or not renewed for any of the following reasons:

a. cruelty or indifference to the welfare of the residents or children of residents in the residential home;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment, if the owner is responsible or if the

staff member who is responsible remains in the employment of the licensee;

e. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

f. any act of fraud such as falsifying or altering documents required for licensure;

g. the owner, director, officer, board of directors member, or any person designated to manage or supervise staff or any staff providing care, supervision, or treatment to a resident or child of a resident of the facility has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttals presumption that such a conviction or plea exists;

h. the provider, after being notified that an officer, director, board of directors member, manager, supervisor, or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a reputable presumption that such a conviction or plea exists;

i. failure of the owner, director, or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

j. revocation or non-renewal of a previous license issued by a state or federal provider;

k. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

l. failure to submit an application for renewal or required documentation or to pay required fees prior to the last day of the anniversary month;

m. operating any unlicensed facility and/or program;

n. permit an individual with a justified (valid) finding of child abuse/neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children/youth/residents; or to knowingly permit an individual who has not disclosed that their name appears with a justified (valid) finding on the state central registry to be on the premises at any time, whether supervised or not supervised;

o. permit an individual, whether supervised or not supervised to be on the residential premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children/youth/residents and the individual has not requested an appeal hearing with DAL within the specified timeframe;

p. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;

q. own a residential home and have been convicted of or have pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense;

r. have knowledge that a convicted sex offender is on the premises and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge;

s. have knowledge that a convicted sex offender is physically present within 1,000 feet of the facility and fail to notify law enforcement immediately upon receipt of such knowledge; or

t. have knowledge that a resident age 18 years or older has been convicted of, pled guilty, or nolo contendere to any offense listed in R.S. 15:587.1 or to any offense involving a juvenile victim and allow the resident to remain on the premises of the residential home.

2. If a license is revoked or not renewed or application denied or refused, a license may also be denied or refused to any affiliate of the licensee or applicant.

3. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action; any owner, officer, member, manager, or program director of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than two years from the date of the final disposition of the revocation or denial action. The lapse of two years shall not automatically restore a person disqualified under this provision. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

H. Disqualification of Facility and Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not process a subsequent application from the provider for that facility or any new facility for a minimum period of 24 months after the effective date of revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its' license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked. In addition, if the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial

of one or more previous applications for licensure, the department may refuse to process a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

3. The disqualification period provided in this Rule shall include any affiliate of the provider.

I. Appeal Process for Denial, Non-Renewal, or Revocation

1. The DCFS Licensing Section, shall advise the applicant, program director, or owner by letter of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the program director or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider shall have 15 calendar days from receipt of the letter notifying of the revocation or non-renewal to request an appeal. Provider may continue to operate during the appeals process as provided in the Administrative Procedure Act.

3. If the provider's license will expire during the appeal process, the provider shall submit all information as required in Paragraph E.2 of this Section. Each provider is solely responsible for obtaining the application form. The required information shall be received on or postmarked by the last day of the month in which the license expires, or the provider shall cease operation at the close of business by the expiration date noted on the license.

4. A provider shall have 30 calendar days from receipt of the letter notifying of the denial of an application for a license to request an appeal.

5. The Appeals Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by DAL of the decision, either affirming or reversing the original decision.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the residential home immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate.

J. Complaint Process

1. In accordance with RS 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect, within prescribed time frames as determined by the department based on the allegation(s) of the complaint. All complaint inspections will be initiated within 30 days.

2. All complaint inspections shall be unannounced.

K. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Children and Family Services shall prominently post a notice of revocation action at each public entrance of the facility within one business day of such action. This notice must remain visible to the general public, other agencies, parents, guardians, and other interested parties of individuals that receive services from the provider.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's licensing management staff verbally and in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation, or non-renewal of any future license.

L. Retention of Records

1. Documentation of the previous 12 months' activity shall be available for review. Records shall be accessible during the facility's hours of operation.

2. For licensing purposes, children of residents' and resident's information shall be kept on file a minimum of one year from date of discharge from the program.

3. For licensing purposes, staff records shall be kept on file a minimum of one year from termination of employment with the provider.

4. Records for residents or children of residents in the custody of DCFS shall be kept on file a minimum of five years from the date of discharge from the facility.

5. If the facility closes, the owner of the facility shall store the resident records for five years.

6. All records shall be retained and disposed of in accordance with state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017).

§7108. Corrective Action Plans

A. A corrective action plan (CAP) shall be submitted for any and all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from the date of the inspection or receipt of the deficiencies, if mailed or emailed. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s)

shall be completed, and outline the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within 3 calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

B. Provider may challenge a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

C. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If the deficiency or information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S.46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:257 (February 2017).

§7109. Critical Violations/Fines

A. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its' discretion elect to impose sanctions, revoke a license, or both:

1. Paragraph A.5 of Section 7107, Subparagraph E.2.f of §7107, Clause F.1.b.xvi of §7107, Clause A.2.c.ii of §7111, Subparagraph A.5.b of §7111, or Clause B.2.a.ii of §7111—criminal background check;

2. Subparagraph E.2.g of §7107, Clause F.1.b.xvii of §7107, Paragraph A.6 of §7107, Paragraph L.2 of §7107, Clause A.2.d.iii of Section 7111, Subparagraph A.6.c of §7111, or Subparagraph B.2.x of §7111—state central registry disclosure;

3. Paragraph A.9 of §7111—staffing ratios;

4. Paragraph F.19 of §7117—motor vehicle checks;

5. Clause A.4.a.xiii of §7111, Clause A.4.c.xv of §7111, or Subparagraph D.1.a of §7111—critical incidents; and/or

6. Paragraph A.9 of §7111, Subparagraph A.4.c of §7111, or Paragraph B.5 or B.6 of §7123—supervision.

B. The option of imposing other sanctions does not impair the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a resident or child of a resident. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a resident or child of a resident will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

C. In determining whether multiple violations of one of the above categories has occurred, both for purposes of this Section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted, even if one or more of the violations occurred prior to the adoption of the current set of standards. If one or more of the violations occurred prior to adoption of the current set of standards, a violation is deemed to have been repeated if the standard previously violated is substantially similar to the present rule.

D.1. For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

2. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

E. For the second violation of one of the same aforementioned categories within a 24-month period, provider will be assessed a civil fine of up to \$250 per day for a violation in each of the aforementioned categories (if same category cited twice) and fined for each day the provider was determined to be out of compliance with one of the aforementioned categories according to the following schedule of fines.

1. The base fine level for all violations shall be \$200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed \$250. If the total fine after all upward and downward adjustments exceeds \$250, reduce the fine for the violation to \$250 as prescribed by law.

a. If the violation resulted in death or serious physical or emotional harm to a resident or child of a resident, or placed the resident or child of a resident at risk of death or serious physical or emotional harm, increase the fine by \$50.

b. If the provider had a previous license revoked for the same critical violation cited, increase the fine by \$25.

c. If the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, decrease the fine by \$25.

d. If the cited critical violation was for a certified criminal background checks not being renewed upon expiration as required, decrease the fine by \$25.

e. If the cited critical violation was for criminal background checks not being completed prior to hire, increase the fine by \$25.

f. If the cited critical violation was for state central registry disclosure forms not being completed annually as required, decrease the fine by \$25.

g. If the cited critical violation was for state central registry disclosure forms not being completed prior to hire, increase the fine by \$25.

h. If the provider exceeds staffing ratios by more than one resident, increase the fine by \$25.

i. If the provider failed to meet staffing ratios related to children of residents, increase the fine by \$25.

j. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by \$25.

k. If the provider failed to self-report the incident which caused the critical violation to be cited, increase the fine by \$25.

l. If a critical violation for supervision was cited due to residents or children of residents being unsupervised in a vehicle, increase the fine by \$25.

m. If a critical violation for supervision was cited due to staff not knowing the whereabouts of residents to which they are assigned, increase the fine by \$25.

F. For the third violation of one of the same aforementioned categories within a 24-month period, the provider's license may be revoked.

G. The aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed \$2,000 as prescribed by law. If a critical violation in a different category is noted by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive 12-month period and the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category re-occur. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in revocation/non-renewal of license.

H. Departmental Reconsideration and Appeal Procedure for Fines

1. When a fine is imposed under these standards, the department shall notify the program director or owner by letter that a fine has been assessed due to deficiencies cited at the residential home and the right of departmental reconsideration. The notification may be sent by certified

mail or hand delivered to the residential home. If the program director or owner is not present at the residential home, delivery of the written reason(s) for such action may be made to any staff of the residential home. Notice to a staff shall constitute notice to the residential home of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036 Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the program director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the residential home. If the program director or owner is not present at the residential home, delivery of the written decision may be made to any staff of the residential home. Notice to a staff shall constitute notice to the residential home of such action.

a. If DCFS finds that the Licensing Section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the Division of Administrative Law (DAL). A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision letter together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the DAL of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act and shall render a decision. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the provider has filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within 7 calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either

in district court or by a court of appeal, the fines shall be due and payable within 7 calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the department's reconsideration decision, the fine is due within 30 calendar days of receipt of the department's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036 Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in Subparagraph H.2.c of this Section. If the provider withdraws the appeal, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017).

§7110. Administration and Organization

A. General Requirements

1. Once a residential home provider has been issued a license, the department shall conduct licensing and other inspections at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These inspections shall be unannounced.

2. The department may remove any resident, child of a resident, or all residents or children of residents from any facility or agency when it is determined that one or more deficiencies exist within the facility that place the health and well-being of children of residents or residents in imminent danger. The children of residents nor residents shall be returned to the facility until such time as it is determined by the department that the imminent danger has been removed.

3. The provider shall allow representatives of the department in the performance of their mandated duties to inspect all aspects of a program's functioning that impact residents and children of residents and to privately interview any staff member or resident. The department representatives shall be admitted immediately and without delay, and shall be given free access to all relevant files and all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner or staff, department representatives shall be permitted to verify that no residents or children of residents are present in that portion and that the private areas are inaccessible to residents and children of residents. Any area to which residents or children of residents have or have had access is presumed to be part of the facility and not the private quarters of the owner or staff.

4. The provider shall make any information that DCFS requires under the present standards and any information reasonably related to determination of compliance with these standards available to the department.

The resident's rights shall not be considered abridged by this standard.

5. The provider accepting any resident from a state other than Louisiana shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including initial and annual approval by the following:

1. Office of Public Health, Sanitarian Services;
2. Office of State Fire Marshal;
3. city fire department (if applicable);
4. local governing authority or zoning approval (if applicable); and
5. Department of Education (if applicable).

C. Governing Body. The provider shall have an identifiable governing body with responsibility for and authority over the policies, procedures, and activities of the provider.

1. The provider shall have documents identifying all members of the governing body, their addresses, the term of their membership (if applicable), officers of the governing body (if applicable), and the terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. Responsibilities of a Governing Body. The governing body of the provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and standards;
3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;
4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;
5. designate a person to act as program director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the program director, written policies and procedures concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;
7. have the authority to dismiss the program director;
8. meet with designated representatives of the department whenever required to do so;
9. inform designated representatives of the department prior to initiating any substantial changes in the program, services, or physical plant of the provider;

10. ensure that the provider establishes a system of business management and staffing which requires maintenance of complete and accurate accounts, books, and records.

E. Authority to Operate. The provider's current Louisiana residential home license shall be on display in a prominent area at the facility, except for facilities operated by a church or religious organization [R.S. 46:1406(D)] that choose to keep the license on file and available upon request. All homes shall operate within the licensed capacity, age range, and/or other specific services designated on the license.

F. Accessibility of Program Director. The program director, or a person authorized to act on behalf of the program director, shall be accessible to provider staff or designated representatives of the department at all times (24 hours per day, 7 days per week).

G. Statement of Philosophy and Goals

1. The provider shall have a written statement of its' residential home philosophy, purpose, program, and goals. The statement shall contain a description of all the services provided to include:

- a. the extent, limitation, and scope of the services for which a license is sought;
- b. the geographical area to be served; and
- c. the ages of residents, ages of children of residents, and types of behaviors to be accepted for placement.

H. House Rules and Regulations. The provider shall have a clearly written list of rules and regulations governing conduct for residents and children of residents in care and shall document that these rules and regulations are made available to each staff member, resident, and, where appropriate, the resident's legal guardian(s).

I. Representation at Hearings. When requested by the placing agency, the provider shall have a representative present at all judicial, educational, or administrative hearings that address the status of a resident or child of a resident in care of the provider. The provider shall ensure that the resident or child of a resident is given an opportunity to be present at such hearings, unless prohibited by the resident's legal guardian or by his/her service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:810 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:260 (February 2017).

§7111. Provider Requirements

A. Provider Responsibilities

1. Enrichment Activities. Provider shall assist children of residents and residents at least twice monthly in creating and updating their lifebook. For children of residents and residents that are not developmentally able to participate in the creation and updating of their own lifebook, staff shall create and update for the children and residents.

a. Lifebooks shall be the property of children of residents and residents and shall remain with the child or resident upon discharge.

b. Lifebooks shall be available for review by DCFS.

2. Personnel Requirements

a. The provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

- i. administrative;
- ii. fiscal;
- iii. clerical;
- iv. housekeeping, maintenance, and food services;
- v. direct resident and child of a resident services;
- vi. record keeping and reporting;
- vii. social service; and
- viii. ancillary services.

b. Personnel can work in more than one capacity as long as they meet all of the qualifications of the position and have met the training requirements.

c. The provider that utilizes volunteers shall be responsible for the actions of the volunteers. Volunteers shall:

i. have orientation and training in the philosophy of the program and the needs of residents and children of residents and methods of meeting those needs prior to working with residents or children of residents;

ii. have documentation of a fingerprint based satisfactory criminal background check from Louisiana State Police as required in R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children of residents. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility. CBC shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. This certified copy of the criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the staff is no longer allowed on the premises until a clearance is received;

iii. have a completed state central registry disclosure form (SCR 1) noting whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46:1414.1. SCR 1 shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents:

(a) this information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any volunteer receiving notice of a justified (valid) determination of child abuse or neglect;

(b). the prospective non-paid staff (volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner of the facility:

(i). if a prospective staff non-paid (volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested;

(ii). individuals are eligible for volunteer services if and when they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children/youth/residents;

(c). current volunteers receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within 3 business days or upon being on the premises, whichever is sooner. Volunteers will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation on a SCR 2 form in accordance with LAC 67:I.305 or shall be terminated immediately:

(i). if the volunteer will no longer be employed at or provide volunteer services for the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time;

(ii). immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the non-paid staff (volunteer) may be counted in ratio. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the children/youth/residents pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children/youth/residents;

(iii). if the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual chooses not to appeal the finding, the non-paid staff (volunteer) shall be terminated immediately;

(iv). if the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the non-paid staff (volunteer) shall continue to be under direct

supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children/youth/residents. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children/youth/residents;

(v). if the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children/youth/residents, the individual shall be terminated immediately;

(d). any owner, current or prospective employee, or volunteer of a facility requesting licensure by DCFS and/or a facility licensed by DCFS is prohibited from working in a facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents;

iv. have three documented reference checks dated within three months prior to beginning volunteer services;

v. have documentation of a signed and dated job description by volunteer.

3. Personnel Qualifications

a. Program Director. The program director shall meet one of the following qualifications:

i. a doctorate degree in a human services field or in administration, business, or a related field;

ii. a master's degree in a human services field or in administration, business, or a related field and one year of work experience in a human services agency;

iii. a bachelor's degree in a human services field or in administration, business, or a related field, and at least two years of work experience in a human services agency;

iv. six years of work experience in a human services field or a combination of undergraduate education and work experience in a human services field for a total of six years. Fifteen credit hours substitute for six months of work experience not to exceed 60 credit hours.

b. Service Plan Manager. The service plan manager shall have a bachelor's degree in a human service field plus a minimum of one year with the relevant population.

c. Documentation of experience for program director and service plan manager shall be verified in writing by previous employer. Documentation of education shall be verified by a copy of the individual's degree or transcript.

d. Direct Care Worker. A direct care worker hired on or after August 1, 2016, shall be at least 21 years of age and have a high school diploma or equivalency and at least two years post-high school job experience.

4. Personnel Job Duties

a. The program director shall be responsible for:

i. implementing and complying with policies and procedures adopted by the governing body;

ii. adhering to all federal and state laws and standards pertaining to the operation of the agency;

iii. addressing areas of non-compliance identified by licensing inspections and complaint inspections;

iv. directing the program;

- v. representing the facility in the community;
 - vi. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the facility during their absence;
 - vii. recruiting qualified staff and employing, supervising, evaluating, training, and terminating employment of staff;
 - viii. providing leadership and carrying supervisory authority in relation to all departments of the facility;
 - ix. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of residents and children of residents, making needed policy revision recommendations, and assisting them in periodic evaluation of the facility's services;
 - x. supervising the facility's management including building, maintenance, and purchasing;
 - xi. participating with the governing body in interpreting the facility's need for financial support;
 - xii. establishing effective communication between staff and residents and children of residents and providing for their input into program planning and operating procedures;
 - xiii. reporting injuries, deaths, and critical incidents involving residents or children of residents to the appropriate authorities; and
 - xiv. supervising the performance of all persons involved in any service delivery/direct care to residents or children of residents.
- b. The service plan manager shall be responsible for:
- i. supervision of the implementation of the resident's service plan;
 - ii. integration of the various aspects of the resident's program;
 - iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications;
 - iv. reviewing quarterly service plan reviews for the successes and failures of the resident's program, including the resident's educational program, with recommendations for any modifications deemed necessary. Designated staff may prepare these reports, however, the service plan manager shall review, sign, and date the reports indicating approval;
 - v. signing and dating all appropriate documents;
 - vi. monitoring that the resident receives a review every 30 days of the need for residential placement and ensuring the timely release, whenever appropriate, of the resident to a least restrictive setting; monitoring any extraordinary restriction of the resident's freedom including use of any form of restraint, any special restriction on a resident's communication with others, and any behavior management plan;
 - vii. asserting and safeguarding the human and civil rights of residents, and children of residents, and their families and fostering the human dignity and personal worth of each resident;
 - viii. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider in order to:

- (a). assist staff in understanding the needs of the resident and his/her family in relation to each other;
 - (b). assist staff in understanding social factors in the resident's day-to-day behavior, including staff/resident relationships;
 - (c). assist staff in preparing the resident for changes in his/her living situation;
 - (d). help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility, through assistance with challenges associated with changes in family structure and functioning, and referral to specific services, as appropriate;
 - (e). help the family to participate in planning for the resident's return to home or other community placement; and
 - (f). supervise and implement the shared responsibility plan regarding resident and child of a resident.
- c. The direct care worker shall be responsible for the daily care and supervision of the residents and children of residents in the living group to which they are assigned which includes:
- i. protecting children's and residents' rights;
 - ii. handling separation anxiety and alleviating the stress of a resident or child of a resident in crisis;
 - iii. modeling appropriate behaviors and methods of addressing stressful situations;
 - iv. crisis management;
 - v. behavior intervention and teaching of appropriate alternatives;
 - vi. training the resident and child of a resident in good habits of personal care, hygiene, eating, and social skills;
 - vii. protecting the resident and child of a resident from harm;
 - viii. handling routine problems arising within the living group;
 - ix. representing adult authority to the residents and children of residents in the living group and exercising this authority in a mature, firm, compassionate manner;
 - x. enabling the resident or child of a resident to meet his/her daily assignments;
 - xi. participating in all staff conferences regarding the resident's progress in program evaluation of service plan goals and future planning;
 - xii. participating in the planning of the facility's program and scheduling such program into the operation of the living group under his/her supervision;
 - xiii. maintaining prescribed logs of all important events that occur regarding significant information about the performance and development of each resident or child of a resident in the group;
 - xiv. reporting emergency medical or dental care needs to the administrative staff in a timely manner;
 - xv. reporting critical incidents to administrative staff in a timely manner; and
 - xvi. completing duties and responsibilities as assigned regarding residents and children of residents.

5. Contractors

- a. Contractors hired to perform work which does not involve any contact with residents or children of residents, shall not be required to have a criminal

background check if accompanied at all times by a staff person when residents or children of residents are present in the facility.

b. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a fingerprint based satisfactory criminal background check from Louisiana State Police as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children of residents. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If a contract staff obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the contract staff is no longer allowed on the premises until a clearance is received.

c. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of the individual receiving notice of a justified (valid) determination of child abuse or neglect. All requirements in §7111.B.2.x.(a)-(c) shall be followed.

6. Post Licensing Information

a. Providers shall advise residents of the licensing authority of DCFS and that residents may contact the Licensing Section with any unresolved complaints. Providers shall post the current telephone number, email address, and mailing address in an area regularly utilized by residents.

7. Orientation

a. All staff hired effective August 1, 2016 or after, shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within five working days of the staff's date of hire and prior to having sole responsibility for residents or children of residents. Documentation of completion shall be the certificate obtained upon completion of the training.

b. The provider's orientation program shall provide training in the following topics for all staff within one week of the staff's date of hire and prior to having sole responsibility for residents or children of residents:

- i. philosophy, organization, program, and practices of the provider;
- ii. specific responsibilities of assigned job duties with regard to residents and children of residents;
- iii. administrative procedures and programmatic goals;
- iv. emergency and safety procedures including medical emergencies;
- v. resident rights;
- vi. detecting and reporting suspected abuse and neglect;
- vii. infection control to include blood borne pathogens;
- viii. confidentiality;
- ix. reporting and documenting incidents;
- x. LGBTQ issues;
- xi. implementation of service plans to include a behavior plan, when clinically indicated;
- xii. staff and resident grievance procedure;
- xiii. rights and responsibilities of residents who have children residing in the facility;
- xiv. responsibility of staff with regard to children of residents residing in the facility;
- xv. transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to program director on how to conduct a visual check;
- xvi. the proper use of child safety restraints required by these regulations and state law (see reference sheet for training resources);
- xvii. recognizing mental health concerns;
- xviii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- xix. basic skills required to meet the dental and health needs and problems of the residents and children of residents;
- xx. prohibited practices;
- xxi. behavior management techniques, including acceptable and prohibited practices;
- xxii. use of time-out, personal restraints, and seclusion that is to include a practice element in the chosen method performed by a certified trainer for direct care staff;
- xxiii. safe self-administration and handling of all medications including psychotropic drugs, dosages, and side effects;
- xxiv. working with people with disabilities, attending to the needs of such residents and children of residents in care, including interaction with family members with disabilities; and
- xxv. use of specialized services identified in §7117 of this Subpart.

c. The provider shall maintain sufficient information to determine content of training noted in §7111.A.7.b.i-xxv. This information shall be available for review.

d. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or service plan manager, attesting to having received the applicable orientation training and the dates of the orientation training.

e. Effective August 1, 2016, staff in facilities licensed to care for children under age two years or facilities

providing services for children of residents shall complete the “reducing the risk of SIDS in early education and child care” training available at www.pedialink.org. Documentation of completion shall be the certificate obtained upon completion of the training.

f. All direct care staff shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 45 days of employment. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization. Online-only training is not acceptable.

8. Annual Training

a. The provider shall ensure that all staff receive training on an annual basis in the following topics:

- i. administrative procedures and programmatic goals;
- ii. emergency and safety procedures including medical emergencies;
- iii. resident rights;
- iv. detecting and reporting suspected abuse and neglect;
- v. infection control to include blood borne pathogens;
- vi. confidentiality;
- vii. reporting and documenting incidents;
- viii. specific responsibilities of assigned job duties with regard to residents and children of residents;
- ix. implementation of service plans to include a behavior plan when clinically indicated;
- x. staff and resident grievance procedure;
- xi. prohibited practices;
- xii. recognizing mental health concerns;
- xiii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- xiv. basic skills required to meet the dental and health needs and problems of the residents and children of residents;
- xv. behavior management techniques including acceptable and prohibited practices;
- xvi. use of time-out, personal restraints, and seclusion which is to include a practice element in the chosen method performed by a certified trainer for direct care staff;
- xvii. safe self-administration and handling of all medication including psychotropic drugs, dosages, and side effects;
- xviii. rights and responsibilities of residents who have children residing in the facility;
- xix. responsibility of staff with regard to children of residents residing in the facility;
- xx. working with people with disabilities, attending to the needs of such residents and children of residents in care, including interaction with family members with disabilities;
- xxi. use of specialized services identified in §7117 of this Subpart; and

xxii. LGBTQ issues;

xxiii. transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to program director on how to conduct a visual check;

xiv. the proper use of child safety restraints required by these regulations and state law (see reference sheet for training resources).

b. Documentation of annual training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director, attesting to having received the applicable annual training and the dates of the training.

c. The provider shall maintain sufficient information available to determine content of training. This information shall be available for review.

d. All direct care staff shall have documentation of current certification in adult CPR and first aid. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training.

e. Effective August 1, 2016, all staff currently employed shall complete the DCFS “mandated reporter training” available at dcfs.la.gov within 45 days and shall be updated annually. Documentation of completion shall be the certificate obtained upon completion of the training.

f. Staff in facilities licensed to care for children under age two years or facilities providing services for children of residents shall annually complete the “Reducing the risk of SIDS in early education and child care” training available at www.pedialink.org. Documentation of completion shall be the certificate obtained upon completion of the training.

9. Staffing and Supervision Requirements

a. The provider shall ensure that an adequate number of qualified direct care staff are present with the residents and children of residents as necessary to ensure the health, safety and well-being of residents and children of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the residents and children of residents, and shall assure the continual safety, protection, direct care, and supervision of residents and children of residents. In addition to the required number of direct care staff, the provider shall employ a sufficient number of maintenance, housekeeping, administrative, support, and management staff to ensure that direct care staff can provide direct care services.

i. The provider shall have at least one adult staff present for every six residents when residents are present and awake. In addition, there shall be one additional staff person for every six children of residents present. There shall always be a minimum of two staff present when children of residents are on the premises.

ii. The provider shall have at least 1 adult staff present and awake for every 12 residents when residents are present and participating in rest time. Between 9 p.m. and 6 a.m., the ratio of 1 staff to every 12 residents is acceptable only if the residents are in their assigned bedrooms and participating in rest time. In addition, there shall be 1

additional staff person for every 6 children of residents present. There shall always be a minimum of 2 staff present when children of residents are on the premises, regardless of the number of children of residents present.

iii. In addition to required staff, at least one staff person shall be on call in case of emergency.

iv. Independent contractors (therapists, tutors, etc.) shall not be included in ratio while providing said individualized services to a specific resident(s) or child(ren) of resident(s).

v. Management or other administrative staff may be included in ratio only if they are exclusively engaged in providing supervision of the residents or direct supervision of the children of residents.

vi. Staff are allowed to sleep, during nighttime hours, only if the following are met.

(a). There is a functional security system monitored by an alarm company. Alarms shall be placed on all windows and exterior doors. The security system shall be enabled during nighttime hours and anytime that the staff/house parents are sleeping. Residents shall not be given the security system code.

(b). There shall be a functional monitoring system on all interior resident and children of resident bedroom doors.

vii. When residents or children of residents are away from the facility, staff shall be available and accessible to the residents and children of residents to handle emergencies or perform other necessary direct care functions.

viii. The provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off-duty time for live-in staff.

ix. Six or more residents under two years of age shall have an additional direct care worker on duty when the residents are present to provide a staff ratio of 1 staff per every 6 residents under age two, in addition to staff noted in §7111.A.9.a.i.

x. The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.

xi. Staff shall be assigned to supervise residents and children of residents whose names and whereabouts that staff person shall know.

xii. When the resident is at the facility with her child, she is responsible for the care and supervision of her own child when not engaged in services or other activities. Staff shall be present and available as a resource and to lend support and guidance to the resident.

xiii. During nighttime hours, staff shall participate in the individual care of a resident and/or assisting a resident in the care of her child.

(a). In bedrooms where a child of a resident resides with their parent, an auditory device shall be required to enable staff to provide assistance to the resident in the care of her child. The monitor shall have an on/off feature which is controlled by the resident, or the device shall be placed in the resident's room during nighttime hours and removed in the morning allowing the resident privacy.

xiv. Children of residents shall be directly supervised by staff on the playground, in vehicles, and while

away from the facility unless the child is accompanied by their own parent.

xv. Staff shall actively and directly supervise residents and/or children of residents engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

10. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. The Licensing Section shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities.

c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard within one week of hire and prior to having responsibility for residents or children of residents and updated annually. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

- i. age- or developmentally-appropriate activities or items;
- ii. reasonable and prudent parent standard;
- iii. role of the provider and of DCFS; and
- iv. allowing for normalcy for the resident or child of a resident while respecting the parent's residual rights.

B. Record Keeping

1. Administrative File

a. The provider shall have an administrative file that shall contain, at a minimum, the following:

- i. a written program plan describing the services and programs offered by the provider;
- ii. organizational chart of the provider;
- iii. all leases, contracts, and purchase-of-service agreements to which the provider is a party;
- iv. insurance policies. Every provider shall maintain in force at all times current comprehensive general liability insurance policy, property insurance, and insurance for all vehicles used to transport residents or children of residents. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any resident or child of a resident in the course and scope of his/her employment;

v. all written agreements with appropriately qualified professionals, or a state agency, for required professional services or resources not available from employees of the provider;

vi. written documentation of all residents' exits and entrances from facility property. Documentation must include, at a minimum, date, time, destination, name of person with whom resident leaves premises.

2. Staff File

a. The provider shall have a personnel file for each staff that shall contain, at a minimum, the following:

i. the application for employment, including education, training, and experience;

ii. a criminal background check in accordance with state law:

(a). prior to employment, a Louisiana State Police fingerprint based criminal background check shall be conducted in the manner required by R.S. 15:587.1 and 46:51.2. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. This certified copy of the criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the staff is no longer allowed on the premises until a clearance is received;

(b). no person, having any supervisory or other interaction with residents or children of residents, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled *nolo contendere* to a crime listed in R.S. 15:587.1(C);

(c). any employee who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction or *nolo contendere* plea;

iii. evidence of applicable professional or paraprofessional credentials/certifications according to state law;

iv. written job description signed and dated by individual staff;

v. documentation of three signed and dated reference checks or telephone notes dated within three months prior to hire attesting affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the staff person;

vi. staff's hire and termination dates;

vii. documentation of current driver's license for operating provider or private vehicles in transporting residents or children of residents;

viii. annual performance evaluations addressing the quality of work to include staff person's interaction with residents and children of residents, family, and other

providers. The evaluations are completed by the program director and signed and dated by program director and staff;

ix. personnel action, other appropriate materials, reports, and notes relating to the staff's employment with the facility;

x. state central registry disclosure forms (SCR 1) noting whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator.

(a). Prior to employment, each prospective employee shall complete a state central registry disclosure form (SCR 1) as required in RS 46:1414.1. SCR-1 forms shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect.

(i). The prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner of the facility.

(ii). If a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

(iii). Individuals are not eligible for employment unless and until they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law expressly stating that they do not pose a risk to children/youth/residents.

(b). Current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation on an SCR 2 form in accordance with LAC 67:I.305 or shall be terminated immediately.

(i). If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

(ii). Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the

staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee) may be counted in ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the residents or children of residents pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children/youth/residents.

(iii). If the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual chooses not to appeal the finding, the staff (employee) shall be terminated immediately.

(iv). If the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children/youth/residents. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children/youth/residents.

(v). If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children/youth/residents, the individual shall be terminated immediately.

(c). Any owner, current or prospective employee, or volunteer of a facility requesting licensure by DCFS and/or a facility licensed by DCFS is prohibited from working in a facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents.

b. Staff shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. Records

a. The provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

b. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.

c. The provider shall have sufficient space, facilities, and supplies for providing effective record keeping services.

4. Resident Record

a. Active Record. The provider shall maintain a separate active record for each resident and child of a resident. The records shall be current and complete and shall be maintained in the facility in which the resident and child of a resident resides and readily available to facility staff. The provider shall have sufficient space, facilities, and

supplies for providing effective storage of records. The records shall be available for inspection by the department.

b. Each resident's record shall contain at least the following information:

i. resident's name, date of birth, Social Security number, previous home address, sex, religion, and birthplace of the resident;

ii. dates of admission and discharge;

iii. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

iv. for residents placed from other states, proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;

v. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;

vi. name, address, and telephone number of a physician and dentist to be called in an emergency;

vii. resident's authorization for routine and emergency medical care;

viii. the pre-admission screening and admission assessment. If the resident was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;

ix. resident's history including family data, educational background, employment record, prior medical history, and prior placement history;

x. a copy of the physical assessment report;

xi. reports of assessments and of any special problems or precautions;

xii. individual service plan, updates, and quarterly reviews;

xiii. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;

xiv. reports of any incidents of abuse, neglect, or incidents, including use of timeout, personal restraints, or seclusion;

xv. photo of resident updated at least annually;

xvi. a summary of court visits;

xvii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts, and feedback, if indicated from the family;

xviii. a record of all personal property and funds, which the resident has entrusted to the facility;

xix. reports of any resident grievances and the conclusion or disposition of these reports;

xx. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her record;

xxi. all signed informed consents;

xxii. immunization record within 30 calendar days of admission; and

xxiii. a discharge summary.

c. Each child of a resident's record shall contain at least the following information:

i. child's information form signed and dated by the legal guardian and updated as changes occur, listing:

(a). the child's name, date of birth, sex, date of admission;

(b). name of parent(s) and legal guardian;

(c). name and telephone number of child's physician;

(d). name and telephone number of the child's dentist (if applicable);

(e). any special concerns, including but not limited to allergies, chronic illness, and any special needs of the child (if applicable);

(f). any special dietary needs, restrictions, or food allergies/intolerances (if applicable);

(g). name and telephone number of child's caseworker (if applicable); and

(h). written authorization to care for child from legal guardian;

ii. for residents that retain custody of their children, a written authorization signed and dated by the resident to secure emergency medical treatment in the event the child of the resident is left in the care of staff;

iii. for residents that retain custody of their children, a written authorization signed and dated by the resident noting the first and last names of individuals to whom the child of the resident may be released, including child care facilities, transportation services, or any person or persons who remove the child of the resident from the facility:

(a). the provider shall verify the identity of the authorized person prior to releasing the child of a resident.

d. For residents that retain custody of their children, the provider shall obtain written, informed consent from the resident prior to releasing any information, recordings, or photographs from which the child might be identified, except for authorized state and federal agencies. This one-time written consent shall be obtained from the resident and updated as changes occur.

e. Provider shall have a signed and dated shared responsibility plan between the resident and provider detailing how they will share the responsibilities of meeting the child of the resident's daily needs to include, but not limited to, who will care for the child at certain times and days of the week, who is responsible for supervising, feeding, changing, bathing, tending to the developmental needs of the child, and purchasing items for the child.

f. If the resident does not retain custody of her child, the provider shall have a written individual child care agreement for each child with the person or agency holding custody of the child.

g. If the resident retains custody of her child, the provider shall obtain written authorization signed and dated by the resident to transport her child on a regular basis. Authorization shall include (if staff transports without resident):

i. name of child;

ii. type of service (to and from home, and to and from school to include the name of the school); and

iii. names of individuals or school to whom the child may be released.

5. Staff Communication

a. The provider shall establish and follow procedures to assure adequate communication among staff to provide continuity of services to the residents and children of residents. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of residents and children of residents, and other information requiring continued action by staff. Documentation shall be legible, signed, and dated by staff.

b. A daily log/record for all children of residents, to include first and last name and in/out times shall be maintained. This record shall accurately reflect all children of residents on the premises at any given time.

C. Confidentiality of Records

1. The provider shall have written policies and procedures for the maintenance, security and retention of records. The provider shall specify who shall supervise the maintenance of records, who shall have custody of records, to whom records may be released, and disposition or destruction of closed service record materials. Records shall be the property of the provider, and the provider, as custodian, shall secure records against loss, tampering, or unauthorized use or access.

2. The provider shall maintain the confidentiality of all records to include all court-related documents, as well as, educational and medical records. Every employee of the provider has the obligation to maintain the privacy of the resident, child of a resident, and his/her family and shall not disclose or knowingly permit the disclosure of any information concerning the resident, child of a resident or his/her family, directly or indirectly, to other residents or children of residents in the facility or any other unauthorized person.

3. When the resident is of majority age and not interdicted, a provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

4. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

5. When the resident retains custody of her child, the provider shall obtain written, informed consent from the resident prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

6. When the resident does not retain custody of her child, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child might be identified, except for accreditation teams and authorized state and federal agencies.

7. The provider shall, upon written authorization from the resident or his/her legal guardian(s), make available information in the record to the resident, his/her counsel or the resident's legal guardian(s). If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be injurious to the

health or welfare of the resident, the provider may deny access to the record. In any such case, the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

8. The provider may use material from the residents' or children of a residents' records for teaching and research purposes, development of the governing body's understanding, and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information disguised or deleted, and written authorization is obtained from the resident or his/her legal guardian(s).

D. Incidents

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating, and analyzing all critical incidents.

a. The provider shall report any of the following critical incidents to the Louisiana child protection statewide centralized intake hotline 1-855-4LA-KIDS (1-855-452-5437), resident's or child of a resident's assigned caseworker, and the Licensing Section as noted in Subparagraph D.1.b below:

- i. abuse;
- ii. neglect;
- iii. injuries of unknown origin;
- iv. death;
- v. attempted suicide;
- vi. serious threat or injury to the health, safety, or well-being of the resident or child of a resident, i.e., elopement or unexplained absence of a resident or child of a resident;

vii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or

viii. unplanned hospitalizations, emergency room visits, and emergency urgent care visits.

b. The program director or designee shall:

i. immediately verbally notify the legal guardian of the incident;

ii. immediately verbally notify the appropriate law enforcement authority and Louisiana child protection statewide centralized intake hotline 1-855-4LA-KIDS in accordance with state law;

iii. submit a written critical incident report form within 24 hours of the incident to Louisiana child protection statewide centralized intake hotline and Licensing Section ;

iv. if requested, submit a final written report of the incident to the legal guardian as soon as possible, but no later than five working days of the incident;

v. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;

vi. maintain copies of any written reports or notifications in the resident's or child of a resident's record;

vii. ensure that a staff person accompanies residents and children of residents when emergency services are needed.

2. Other Incidents. The provider shall have and adhere to written policies and procedures for documenting,

reporting, investigating, and analyzing all other accidents, incidents, and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.

a. The provider shall initiate a detailed report of any other unplanned event or series of unplanned events, accidents, incidents, and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident excluding those identified in Subparagraph D.1.a of this Section within 24 hours of the incident.

3. When a child of a resident residing in the facility with their parent, sustains any of the following, the resident shall be immediately notified:

- a. blood not contained in an adhesive strip;
- b. injury of the neck and head;
- c. eye injury;
- d. human bite which breaks the skin;
- e. any animal bite;
- f. an impaled object;
- g. broken or dislodged teeth;
- h. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
- i. unusual breathing;
- j. symptoms of dehydration;
- k. any temperature reading over 101 oral, 102 rectal, or 100 axillary; or
- l. any injury or illness requiring professional medical attention.

4. The provider shall not delay seeking care for a resident or child of a resident while attempting to make contact with the resident or legal guardian in a situation which requires emergency medical attention.

5. At a minimum, the incident report for critical and other incidents shall contain the following:

- a. date and time the incident occurred;
- b. a brief description of the incident;
- c. where the incident occurred;
- d. names of residents, children of residents, or staff involved in the incident;
- e. immediate treatment provided, if any;
- f. symptoms of pain and injury discussed with the physician;
- g. date and signature of the staff completing the report;
- h. name and address of witnesses;
- i. date and time the legal guardian, child welfare, licensing, and law enforcement (if applicable) was notified;
- j. any follow-up required;
- k. preventive actions to be taken in the future; and
- l. documentation of actions regarding staff involved to include corrective action.

6. A copy of all written reports shall be maintained in the resident's or child of a resident's record.

E. Abuse and Neglect

1. The provider shall establish and follow a written, abuse/neglect policy that includes the following information:

a. describes communication strategies used by the provider to maintain staff awareness of abuse prevention,

current definitions of abuse and neglect, mandated reporting requirements to the Louisiana child protection statewide centralized intake hotline and applicable laws;

b. ensures the resident and child of a resident are protected from potential harassment during the investigation;

c. ensures that the provider shall not delay reporting suspected abuse and/or neglect to the Louisiana child protection statewide centralized intake hotline in an attempt to conduct an internal investigation to verify the abuse/neglect allegations;

d. ensures that the provider shall not require any staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the child protection statewide hotline 1-855-4LA-KIDS (1-855-452-5437);

e. ensures the staff member involved in the incident does not work directly with the resident or child of a resident involved in the program until an internal investigation is conducted by the facility or the child protection unit staff makes an initial report;

f. ensures the staff member that may have been involved in the incident is not involved in conducting the investigation;

g. ensures that confidentiality of the incident is protected.

2. As mandated reporters, all staff and owners shall report any suspected abuse and/or neglect of a resident or child of a resident whether that abuse or neglect was perpetrated by a staff member, a family member, or any other person in accordance with R.S. 14:403 to the Louisiana child protection statewide centralized intake hotline 1-855-4LA-KIDS (1-855-452-5437). This information shall be posted in an area regularly used by residents.

3. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall notify licensing section. At a minimum the report shall contain:

a. name of suspected resident or child victim of alleged child abuse and/or neglect;

b. address and telephone number of where suspected victim may be contacted;

c. name(s) of alleged perpetrator(s);

d. alleged perpetrator(s)' address;

e. nature, extent, and cause of resident's or child of a resident's injury, neglect or condition;

f. current circumstance of resident or child of a resident and if resident or child of a resident is currently in danger;

g. identify names of possible witnesses;

h. identify how incident came to reporter's attention;

i. have other incidents of suspected abuse and/or neglect been reported regarding this resident, child of a resident, or alleged perpetrator;

j. any other pertinent information; and

k. name of person reporting to child protection and time of notification.

F. Grievance Process

1. The provider shall have and adhere to a written policy and procedure, which establishes the right of every resident and the resident's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the resident and the resident's legal guardian(s) to file grievances that shall include procedures for filing verbal, written, or anonymous grievances; and

b. a formal process for the provider to communicate with the resident and/or legal guardian about the grievance within five calendar days of receipt of the grievance.

3. Each resident shall be fully informed of the grievance and complaint policy and procedure and be provided with a written copy. Each resident's record shall contain written acknowledgement signed and dated by program director or designee and resident of understanding and receipt of grievance and complete policies and procedures.

4. The provider shall maintain a log documenting all verbal, written, or anonymous grievances filed.

5. Documentation of any resident's or resident's legal guardian(s)' grievance and the conclusion or disposition of these grievances shall be maintained in the resident's record. This documentation shall include any action taken by the provider in response to the grievance and any follow-up action involving the resident.

G. Data Collection and Quality Improvement

1. The provider shall have and adhere to a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. at least monthly review of resident's and children of resident's records;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time, and identification of residents and staff involved in each incident to include a critical analysis of the incidents to note patterns of behavior by specific residents or specific staff; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

H. Family Involvement. The provider shall have and adhere to written strategies to foster ongoing positive communication and contact between children of residents, residents, and their families, their friends, and others significant in their lives.

I. Influenza Notice to Parents

1. In accordance with R.S. 46:1428 providers shall make available to each resident's parent or legal guardian and to each resident aged eighteen or above information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a resident or youth may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information

shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year. This information shall also be provided to residents with children residing in the facility.

J. Recalled Products

1. The provider shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General as required by chapter 55 of title 46 of R.S. 46:2701-2711. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017).

§7113. Admission and Discharge

A. Admission

1. Policies and Procedures

a. The provider shall have and adhere to written policies and procedures that shall include, at a minimum, the following information regarding an admission to the facility:

- i. the application process and the possible reasons for rejection of an application;
- ii. pre-admission screening assessment;
- iii. the age and sex of residents and children of residents to be served;
- iv. the needs, problems, situations, or patterns best addressed by the provider's program;
- v. criteria for admission;
- vi. authorization for care of the resident and child of a resident;
- vii. authorization to obtain medical care for the resident and child of a resident;
- viii. criteria for discharge;
- ix. procedures for insuring that placement within the program are the least restrictive alternative, appropriate to meet the resident's needs.

b. No resident shall be admitted from another state unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance shall be obtained prior to admission and shall be kept in the resident's file.

c. When refusing admission to a resident or child of a resident, the provider shall notify the referring party of the reason for refusal of admission in writing. If his/her parent(s) or legal guardian(s) referred the resident, he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal of admission shall be kept in the provider's administrative file.

2. Pre-Admission Screening

a. The provider shall receive an assessment of the applicant from the placing agency prior to admission that identifies services that are necessary to meet the resident's needs and verifies that the resident cannot be maintained in a

less restrictive environment within the community. This assessment shall be maintained in the resident's record. The provider shall conduct the pre-admission screening within 24 hours of admission to assess the applicant's needs and appropriateness for admission and shall include the following:

- i. current health status and any emergency medical needs, mental health, and/or substance abuse issues;
- ii. allergies;
- iii. chronic illnesses or physical disabilities;
- iv. current medications and possible side effects;
- v. any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan;
- vi. proof of legal custody or individual placing agency agreement;
- vii. other therapies or ongoing treatments;
- viii. family information; and
- ix. education information.

b. Information gathered from the preadmission screening shall be confirmed with resident and legal guardian (if applicable).

3. Admission Assessment

a. An admission assessment shall be completed or obtained within three business days of admission to determine the service needs and preferences of the resident. This admission assessment shall be maintained in the resident's record. Information gathered from the pre-admission screening and the admission assessment shall be used to develop the interim service plan for the resident.

B. Service Plan

1. Within 15 days of admission, the provider, with input from the resident, his/her parents, if appropriate and legal guardian shall develop an interim service plan using information gathered from the pre-admission screening and the admission assessment. This interim service plan shall include:

- a. the services required to meet the resident's needs;
- b. the scope, frequency, and duration of services;
- c. monitoring that will be provided; and
- d. who is responsible for providing the services, including contract or arranged services.

2. Within 30 days of admission, the provider shall have documentation that a resident has an individual service plan developed that is comprehensive, time-limited, goal-oriented, and addresses the needs of the resident. The service plan shall include the following components:

- a. a statement of goals to be achieved for the resident and his/her family;
- b. plan for fostering positive family relationships for the resident, when appropriate;
- c. schedule of the daily activities including training/education for residents and recreation to be pursued by the program staff and the resident in attempting to achieve the stated goals;
- d. any specific behavior management plan:

- i. the provider shall obtain or develop, with the participation of the resident and his/her legal guardian or family, an individualized behavior management plan for each resident receiving service. Information gathered from the pre-admission screening and the admission assessment will be used to develop the plan. The plan shall include, at a minimum, the following:

- (a). identification of the resident's triggers;
 - (b). the resident's preferred coping mechanisms;
 - (c). techniques for self-management;
 - (d). anger and anxiety management options for calming;
 - (e). a review of previously successful intervention strategies;
 - (f). a summary of unsuccessful behavior management strategies;
 - (g). identification of the resident's specific targeted behaviors;
 - (h). behavior intervention strategies to be used;
 - (i). the restrictive interventions to be used, if any;
 - (j). physical interventions to be used, if any; and
 - (k). specific goals and objectives that address target behaviors requiring physical intervention;
- e. any specialized services provided directly or arranged for will be stated in specific behavioral terms that permit the problems to be assessed and methods for insuring their proper integration with the resident's ongoing program activities;
- f. any specific independent living skills needed by the resident which will be provided or obtained on behalf of the resident by the facility staff;
- g. overall goals and specific objectives that are time limited;
- h. methods for evaluating the resident's progress;
- i. use of community resources or programs providing service or training to that resident, and shall involve representatives of such services and programs in the service planning process whenever feasible and appropriate. Any community resource or program involved in a service plan shall be appropriately licensed or shall be a part of a reputable program;
- j. any restriction to residents' "rights" deemed necessary to the resident's individual service plan. Any such restriction shall be expressly stated in the service plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the service plan, and the reasons less restrictive methods cannot be employed;
- k. goals and preliminary plans for discharge;
- l. identification of each person responsible for implementing or coordinating implementation of the plan;
- m. mental health screening; and
- n. developmental and psychological assessments.
3. The service plan shall be developed by a team including, but not limited to, the following:
- a. service plan manager;
 - b. representatives of the direct care staff working with the resident on a daily basis;
 - c. the resident;
 - d. the resident's parent(s), if indicated;
 - e. the resident's legal guardian(s); and
 - f. any other person(s) significantly involved in the resident's care on an ongoing basis.
4. All team participants shall sign and date the completed service plan.
5. The service plan shall be monitored by the team on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences

- have changed. A team meeting shall be held at least quarterly. The quarterly review shall be signed and dated by all team participants.
6. The provider shall ensure that all persons working directly with the resident are appropriately informed of the service plan and have access to information from the resident's records that is necessary for effective performance of the employee's assigned tasks.
7. The provider shall document that the resident, parent(s), where applicable, and the legal guardian have been invited to participate in the planning and quarterly review process. When they do not participate, the provider shall document the reasons for nonparticipation.
8. All service plans including quarterly reviews shall be maintained in the resident's record.
- C. Discharge
1. The provider shall have a written policy and procedure for all discharges. The discharge procedure shall include at least the following:
- a. projected date of discharge;
 - b. responsibilities of each party (provider, resident, family) with regard to the discharge and transition process;
 - c. transfer of any pertinent information regarding the resident's stay at the facility; and
 - d. follow-up services, if any and the responsible party.
2. Emergency discharges initiated by the provider shall take place only when the health and safety of a resident or staff might be endangered by the resident's further stay at the facility. The provider shall have a written report detailing the circumstances leading to each unplanned discharge within seven calendar days of the discharge. The discharge summary is to be kept in the resident's record and shall include:
- a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);
 - b. the name, address, and telephone number of the provider;
 - c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;
 - d. a summary of services provided during care including medical, dental, and health services;
 - e. a summary of the resident's progress and accomplishments during care; and
 - f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.
3. When a discharge is planned, the provider shall compile or obtain a complete written discharge summary within seven days of discharge. The discharge summary is to be kept in the resident's record and shall include:
- a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);
 - b. the name, address, and telephone number of the provider;
 - c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;
 - d. a summary of services provided during care including medical, dental, and health services;

e. a summary of the resident's progress and accomplishments during care; and

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

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§7115. Resident Protection

A. Rights

1. Provider Responsibility

a. The provider shall have written policies and procedures that ensure each resident's and child of a resident's rights are guaranteed and protected.

b. None of the resident's rights shall be infringed upon or restricted in any way unless such restriction is necessary and indicated in the resident's individual service plan. When individual rights restrictions are implemented, the provider shall clearly explain and document any restrictions or limitations on those rights, the reasons that make those restrictions necessary in the resident's individual service plan and the extent and duration of those restrictions. The documentation shall be signed by provider staff, the resident, and the legal guardian(s) or parent(s), if indicated. No service plan shall restrict the access of a resident to legal counsel or restrict the access of state or local regulatory officials to a resident.

c. Residents and children of residents with disabilities have the rights guaranteed to them under the Americans with Disabilities Act (ADA), 42 USC §12101 et seq., and regulations promulgated pursuant to the ADA, 28 CFR Parts 35 and 36 and 49 CFR Part 37; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794, and regulations promulgated pursuant thereto, including 45 CFR Part 84. These include the right to receive services in the most integrated setting appropriate to the needs of the individual; to obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); to receive auxiliary aids and services to enable equally effective communication; to equivalent transportation services; and to physical access to a provider's facilities.

2. Privacy

a. Residents and children of residents have the right to personal privacy and confidentiality. Any records and other information about the resident or child of a resident shall be kept confidential and released only with the legal guardian's expressed written consent or as required by law.

b. A child of a resident shall not be photographed or recorded without the express written consent of the resident or the child's legal guardian(s). A resident shall not be photographed or recorded without the express written consent of the resident and the resident's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child of the resident and resident.

c. Residents nor children of residents shall participate in research projects without the express written consent of the resident, child of the resident, and the legal guardian(s).

d. Residents nor children of residents shall participate in activities related to fundraising and publicity without the express written consent of the resident, child of the resident, and the legal guardian(s).

3. Contact with Family and Collaterals

a. A child of a resident and resident have the right to consult freely and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. Special restrictions shall be imposed only to prevent serious harm to the child of a resident or resident. The reasons for any special restrictions shall be recorded in the child of the resident's record or resident's service plan, as applicable and explained to the child of the resident, resident, and his or her family. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child of the resident's record or resident's service plan, as applicable. Home visits shall be approved by the legal guardian.

b. A child of a resident and resident have the right to telephone communication. The provider shall allow children of residents and residents to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child of the resident's record or resident's service plan, as applicable. The service plan manager shall formally approve any restriction on telephone communication in a child of the resident's record or resident's service plan, as applicable. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child of the resident's record or resident's service plan, as applicable. The cost for long distance calls shall not exceed the usual and customary charges of the local phone company provider. There shall be no restrictions on communication between a child of a resident and their legal counsel.

c. A child of a resident and resident have the right to send and receive mail. The provider shall allow children of residents and residents to receive mail unopened, uncensored, and unread by staff unless contraindicated in the child of a resident's record or resident's service plan, as applicable. The service plan manager shall review this restriction every 30 days. No service plan or record shall restrict the right to write letters in privacy and to send mail unopened, uncensored, and unread by any other person. Correspondence from a child of a resident's or resident's legal counsel shall not be opened, read, or otherwise interfered with for any reason. Children of residents and residents shall have access to all materials necessary for writing and sending letters and when necessary, shall receive assistance.

d. Children of residents and residents have the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of their choosing.

e. Children of residents and residents have the right to communicate freely and privately with state and local regulatory officials.

4. Safeguards

a. Residents and children of residents have the right to file grievances without fear of reprisal as provided in the grievances section of these standards.

b. Residents and children of residents have the right to be free from mental, emotional, and physical abuse and neglect and be free from chemical or mechanical restraints. Any use of personal restraints shall be reported to the legal guardians(s).

c. Residents and children of residents have the right to live within the least restrictive environment possible in order to retain their individuality and personal freedom.

5. Civil Rights

a. Residents' nor children of residents' civil rights shall be abridged or abrogated solely as a result of placement in the provider's program.

b. A resident nor child of a resident shall be denied admission, segregated into programs, or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, physical limitations, political beliefs, or any other non-merit factor. Facilities must comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

6. Participation in Program Development

a. Residents and children of residents have the right to be treated with dignity in the delivery of services.

b. Residents and children of residents have the right to receive preventive, routine, and emergency health care according to individual needs which will promote his or her growth and development.

c. Residents and children of residents have the right to be involved, as appropriate to age, development, and ability in assessment and service planning.

d. Residents and children of residents have the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services or punished for not participating in religious services. The provider shall have and adhere to a written policy of its religious orientation, particular religious practices that are observed, and any religious restrictions on admission. This description shall be provided to the resident, child of a resident, and the legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall, whenever possible, arrange transportation and encourage participation by those residents or children of residents who desire to participate in religious activities in the community.

7. Acknowledgement of Resident

a. Each resident shall be fully informed of all rights noted in Paragraphs A.1-6 of this Section and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of resident's rights, and when changes occur. Each resident's record shall contain a copy of the written acknowledgment, which shall be signed and dated by the program director, or designee, and the resident.

b. Each resident shall be informed of how and where to safely evacuate the facility during an emergency situation. The acknowledgement of understanding shall be signed and dated by the resident and program director, or designee.

B. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff members. Staff members shall not be allowed to engage in any of the prohibited practices. Staff shall not promote or condone these prohibited practices between residents or children of residents. This list shall include the following:

- a. use of a chemical or mechanical restraint;
- b. corporal punishment such as slapping, spanking, paddling or belting;
- c. marching, standing, or kneeling rigidly in one spot;
- d. any kind of physical discomfort except as required for medical, dental or first aid procedures necessary to preserve the resident's or child of a resident's life or health;
- e. denial or deprivation of sleep or nutrition except under a physician's order;
- f. denial of access to bathroom facilities;
- g. verbal abuse, ridicule, or humiliation, shaming or sarcasm;
- h. withholding of a meal, except under a physician's order;
- i. requiring a resident or child of a resident to remain silent for a long period of time;
- j. denial of shelter, warmth, clothing, or bedding;
- k. assignment of harsh physical work;
- l. punishing a group of residents or children of residents for actions committed by one or a selected few; a group activity shall not be cancelled for the entire group, prior to the activity, due to the behavior of one or more individuals;
- m. withholding family visits or communication with family;
- n. extensive withholding of emotional response;
- o. denial of school services or denial of therapeutic services;
- p. other impingements on the basic rights of children of residents or residents for care, protection, safety, and security;
- q. organized social ostracism, such as codes of silence;
- r. pain compliance, slight discomfort, trigger points, pressure points, or any pain inducing techniques;
- s. hyperextension of any body part beyond normal limits;
- t. joint or skin torsion;
- u. pressure or weight on head, neck, throat, chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression;
- v. straddling or sitting on any part of the body;
- w. any position or maneuver that obstructs or restricts circulation of blood or obstructs an airway;
- x. any type of choking;
- y. any type of head hold where the head is used as a lever to control movement of other body parts;

z. any maneuver that involves punching, hitting, poking, pinching, or shoving;

aa. separation of a resident and her child as a means of punishment;

bb. punishment for actions over which the child has no control such as bedwetting, enuresis, encopresis, or incidents that occur in the course of toilet training activities;

cc. use of threats or threatening an individual with a prohibited action even though there is/was no intent to follow through with the threat;

dd. cruel, severe, unusual, degrading, or unnecessary punishment;

ee. yelling, yanking, shaking;

ff. requiring a child of a resident or resident to exercise as punishment or placing a child of a resident or resident into uncomfortable positions;

gg. exposing a child of a resident or resident to extreme temperatures or other measures producing physical pain;

hh. putting anything in a resident's or child of a resident's mouth as a means of punishment;

ii. using abusive or profane language, including but not limited to telling a child of a resident to "shut up"; or

jj. any technique that involves covering of the mouth, nose, eyes or any part of the face.

2. The resident and child of a resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation signed and dated acknowledging receipt of the list of prohibited practices by the resident and, where appropriate, the child of the resident and resident's legal guardian(s) in the record.

3. A list of prohibited practices shall be posted in the facility in an area regularly utilized by residents.

C. Behavior Support and Intervention Program

1. The provider shall have and adhere to a behavior support and intervention program that:

a. describes the provider's behavior support philosophy;

b. safeguards the rights of residents, children of residents, families, and staff;

c. governs allowed and prohibited practices; and

d. designates oversight responsibilities.

2. The provider shall have and adhere to written policies and procedures that include, but are not limited to:

a. a behavior support and intervention model consistent with the provider's mission;

b. proactive and preventive practices;

c. development of behavior support plans for residents and children of residents;

d. prohibited behavior intervention practices;

e. restrictive practices, if any, that are allowed and circumstances when they can be used;

f. physical interventions to be used, if any;

g. informed consent of legal guardians for use of behavior support and interventions; and

h. oversight process.

3. An informed consent shall be obtained from the legal guardian for the use of any restrictive intervention.

4. There shall be a system in place that monitors the effectiveness of behavior support and interventions implemented.

5. All persons implementing physical interventions shall be trained and certified in behavior management under nationally accredited standards.

6. Participation by the resident, family, and the resident's legal guardian(s) in the development and review of the behavior support plan shall be documented in the resident's record.

7. There shall be documentation of written consent to the behavior support plan by the resident and the resident's legal guardian(s) in the resident's record.

D. Time-Out

1. The provider shall have and adhere to a written policy and procedure that governs the use of time-out to include the following:

a. any room used for time out shall be unlocked and the resident or child of a resident shall, at all times, be free to leave if he or she chooses;

b. time-out procedures shall be used only when less restrictive measures have been used without effect. There shall be written documentation of less restrictive measures used in the resident's or child of a resident's record;

c. emergency use of time-out for residents shall be approved by the service plan manager or program director for a period not to exceed one hour for residents age 6 and above;

d. time-out used in an individual behavior support plan for residents shall be part of the overall service plan;

e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed two hours for residents;

f. staff shall make periodic checks but at least every 15 minutes while the resident is in time-out;

g. the resident shall be allowed to return to the daily activities at any time he/she has regained control of his/her behavior and is ready to participate in the group activities;

h. a resident or child of a resident in time-out shall not be denied access to bathroom facilities, water, or meals;

i. after each use of time out, the staff shall document the incident and place in the resident's record;

j. an administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences;

k. time-out shall not be used for children of residents or residents under two years of age;

l. the length of time out for children 2 years-5 years of age shall be based on the age of the child and shall not exceed a maximum of one minute per year of age. Provider shall take into account the child's developmental stage, tolerances, and ability to learn from time-out.

E. Personal Restraints

1. The provider shall and adhere to have a written policy and procedure that governs the use of personal restraints.

2. Use of personal restraints shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment, or for staff convenience.

3. Written documentation of any less restrictive measures attempted shall be documented in the resident's record.

4. A personal restraint shall be used only in an emergency when a resident's behavior escalates to a level where there is imminent risk of harm to the resident or others and other de-escalation techniques have been attempted without effect. The emergency use of personal restraints shall not exceed the following:

- a. 30 minutes for a resident under nine years old; or
- b. one hour for a resident nine years old or older.

5. The specific maximum duration of the use of personal restraints as noted in Paragraph E.4 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of personal restraints shall be 12 hours.

6. During any personal restraint, staff qualified in emergency behavior intervention must monitor the resident's breathing and other signs of physical distress and take appropriate action to ensure adequate respiration, circulation, and overall well-being. If available, staff that is not restraining the resident should monitor the resident. The resident must be released immediately when an emergency health situation occurs during the restraint. Staff must obtain treatment immediately.

7. The resident must be released as soon as the resident's behavior is no longer a danger to himself or others.

8. Restraints are only to be used by employees trained by a certified trainer under a program that aligns with the nationally accredited standards. A single person restraint can only be initiated in a life-threatening crisis. Restraint by a peer is prohibited. Staff performing a personal restraint on a resident with specific medical conditions must be trained on risks posed by such conditions.

9. As soon as possible after the use of a personal restraint, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

10. After use of a personal restraint, the staff shall document the incident and place in the resident's record.

11. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

12. All incidents of personal restraint use shall be trended in the quality improvement program. A summary report on the use of personal restraints will be prepared and submitted to the Licensing Section on a quarterly basis.

13. In the event a death occurs during the use of a personal restraint, the facility shall conduct a review of its personal restraint policies and practices and retrain all staff in the proper techniques and in methods of de-escalation and avoidance of personal restraint use within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section upon completion of training.

F. Seclusion

1. The provider shall have and adhere to a written policy and procedure that governs the use of seclusion, if such a room exists in the facility. Seclusion may only be used in accordance with this Subsection.

2. Use of seclusion shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. A resident will be placed in a seclusion room only in an emergency, when there is imminent risk of harm to the resident or others and when less restrictive measures have been used without effect. Written documentation of the less restrictive measures attempted shall be documented in the resident's record. The emergency use of seclusion shall not exceed the following:

- a. one hour for a resident under nine years old; or
- b. two hours for a resident nine years old or older.

4. The specific maximum duration of the use of seclusion as noted in Paragraph F.3 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of seclusion shall be 12 hours.

5. A staff member shall exercise direct physical observation of the resident at all times while in seclusion. During the seclusion, the staff must monitor the resident's physical well-being for physical distress and take appropriate action, when indicated. The resident must be released immediately when an emergency health situation occurs during the seclusion and staff must obtain treatment immediately. The staff member must assess the resident's psychological well-being to ensure that the intervention is being completed in a safe and appropriate manner and that the facility's policies and procedures are being upheld.

6. Seclusion used as part of an individual behavior support plan shall state the reasons for using seclusion and the terms and conditions under which seclusion shall be terminated or extended.

7. A resident in seclusion shall not be denied access to bathroom facilities, water or meals.

8. As soon as possible, but no later than 72 hours after the use of seclusion, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff member(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

9. After use of seclusion, the staff shall document the incident and place in the resident's record.

10. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

11. All incidents of seclusion shall be trended in the quality improvement program. A summary report on the use of seclusion will be prepared and submitted to the Licensing Section on a quarterly basis.

12. The resident's legal guardian, the Louisiana child protection statewide hotline 1-855-4LA-KIDS (1-855-452-5437), and the Licensing Section shall be notified if injury or death occurs while the resident is in seclusion.

13. In the event a death occurs during the use of seclusion, the facility shall conduct a review of its seclusion policies and practices and retrain all staff in the proper use of seclusion and in methods of de-escalation and avoidance of seclusion within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section upon completion of training.

14. Seclusion Room

a. The resident shall be unable to voluntarily leave the room.

b. The room shall be large enough to allow easy access for staff to enter and exit and deep enough to ensure that the person being secluded cannot keep the door from closing by blocking it with the body or an object.

c. The ceiling of the seclusion room shall be unreachable and of solid construction.

d. If there are windows in the seclusion room, they should be locked with security locks and not allowed to open to the outside. Safety glass or plastic that cannot be broken shall be used for the panes. The view from the door observation window must not be obstructed.

e. The inside walls of the seclusion room shall be constructed of safe material with give that can be easily cleaned. Nothing shall protrude or extend from the wall.

f. The door of the room shall swing outward to prevent a person from blocking the door from opening and thus barricading himself in the room.

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§7117. Provider Services

A. Education

1. The provider shall have and adhere to written policies and procedures to ensure that each resident and child of a resident has access to the most appropriate educational services consistent with the resident's and child of a resident's abilities and needs, taking into account his/her age and level of functioning.

2. The provider shall ensure that educational records from the resident's or child of a resident's previous school are transferred to the new educational placement timely.

3. A resident's service plan shall identify if the resident has any disabilities. Residents and children of residents with disabilities shall be identified to the local education agency. If the resident or child of a resident is eligible for Individual with Disabilities Education Act (IDEA) services, the provider shall work with the legal guardian to ensure that he or she has a current educational evaluation, an appropriate Individualized Educational Plan (IEP), and surrogate parent to assist him or her in enforcing rights under the IDEA. If the resident or child of a resident is eligible for section 504 accommodations in the Rehabilitation Act of 1973, as amended, the provider shall work with the legal guardian.

4. If a resident or child of a resident is suspected of having a disability that would qualify him or her for special education services, the provider shall work with the legal

guardian to ensure that a request for a special education evaluation is made and that the local education agency responds appropriately.

5. The provider shall work with the legal guardian and, where applicable, surrogate parent, to identify any deficiencies or problems with a resident's or child of a resident's IEP or individualized accommodations plan (IAP), and to ensure that the resident's or child of a resident's IEP or IAP is being implemented by the local education agency.

6. Whether educational services are provided on or off-site, all residents and children of residents of school age shall be enrolled in and attending the least restrictive available option of either a school program approved by the Department of Education or an alternative educational program approved by the local school board within three school days of admission to the facility. Children of residents residing in the facility shall attend school off site.

7. The provider shall ensure residents have access to vocational training, GED programs, and other alternative educational programming, if appropriate.

8. Whether educational services are provided on or off-site, the provider shall coordinate residents' participation in school-related extracurricular activities, including any related fees or costs for necessary equipment.

9. The provider shall coordinate children of residents' participation in school-related extracurricular activities, including any related fees or costs for necessary equipment.

10. Whether educational services are provided on or off-site, the provider shall notify the resident's legal guardian(s) and, where applicable, the resident's surrogate parent, verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal from school. Notification shall be documented in the resident's or child of a resident's record.

11. The provider shall notify the resident or child of a resident's legal guardian(s) verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal of their child from school. Notification shall be documented in the child of the resident's record.

12. All residents and children of residents shall receive a free and appropriate education. If transportation is not provided by the local educational authority, the provider shall transport the resident or child of a resident to school or other educational program in order for the resident to fulfill the requirements of their educational program.

13. When children of residents are picked up or dropped off at the facility by a public or private school bus or transportation service, staff shall be present to safely escort children of residents to and from the bus.

14. If educational services are provided on-site, the following also apply.

a. The provider shall provide accommodations for educational services to be provided by the local school district in accordance with local school board calendar. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each resident.

b. Prior to the end of the first official school day following admission, the resident shall receive a brief educational history screening with respect to their school status, special education status, grade level, grades, and

history of suspensions or expulsions. Staff shall use this information to determine initial placement in the facility's educational program.

c. Within 3 school days of the resident's arrival at the facility, the provider shall request educational records from the resident's previous school. If records are not received within 10 school days of the request, the program director shall report in writing on the eleventh day to the local school district from which records were requested that the information has been requested and not received. If the records are not received within the following 7 school days of notifying the local school district, the program director shall file a written complaint with the Board of Elementary and Secondary Education (BESE) on the eighth day.

d. Residents in restricted, disciplinary, or high security units shall receive an education program comparable to residents in other units in the facility consistent with safety needs.

e. When residents are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

f. Behavior intervention plans shall be developed for a resident whose behavior or emotional stability interferes with their school attendance and progress.

g. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of residents.

h. The provider shall ensure that residents are engaged in instruction for the minimum minutes in a school day required by law.

i. The program director shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including but not limited to, special education staff and substitute teaching staff. If the issue is not resolved within five school days by the local school district, then the program director shall file a written complaint on the sixth day with BESE and cooperate with any subsequent directives received from BESE.

B. Daily Living Responsibilities

1. Routines

a. The provider shall have and adhere to a written schedule of daily routines for residents designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to residents, and in the provision of adequate periods of recreation, privacy, rest, and sleep.

b. Written schedules of daily routines shall be posted and available to the residents.

c. Daily routines shall be determined in relation to the needs and convenience of the residents who live together.

d. Whenever appropriate, the residents shall participate in making decisions about schedules and routines.

e. The program for daily routines shall be reviewed periodically and revised as the needs of the residents or living group change.

f. The provider shall develop and adhere to written policies regarding a daily schedule for children of residents that includes planned/unplanned activities, allowing for flexibility and change. Activities shall accommodate and

have due regard for individual needs and differences among children. Children of residents' routines shall include time daily for indoor and outdoor play (weather permitting) that incorporate free play, gross/fine motor activities and vigorous and quiet activities. Time should also be designated for activities that support children's development of social, emotional, physical, language/literacy, cognitive/intellectual and cultural skills, as well as for routine occurrences such as meals/snacks, rest time, etc.

2. Personal Possessions

a. The provider shall allow residents and children of residents to bring their personal possessions and display them, when appropriate.

b. Residents and children of residents shall be allowed to acquire possessions of their own. The provider may, as necessary, limit or supervise the use of these items. Where restrictions are imposed, the resident or child of a resident shall be informed by staff of the reason of the restriction. The decision and reason shall be recorded in the individual's record.

c. Each resident and child of a resident shall have a secure place to store his/her personal property.

d. Possessions confiscated by staff will be documented to include:

i. signature of the staff and resident or child of a resident;

ii. date and time of confiscation; and

iii. date and time when returned to resident or child of a resident and signature of resident or child of resident;

iv. description of items confiscated and reason confiscated.

e. The provider shall be responsible for all confiscated items, including replacement if the item is damaged, lost, or stolen while in the provider's possession.

f. A log of any valuable personal possessions to include any assistive devices, i.e., hearing aide, glasses, etc., shall be maintained by the provider.

3. Clothing and Personal Appearance

a. The provider shall ensure that residents and children of residents are provided with clean, well-fitting clothing appropriate to the season and to the individual's age, sex, and individual needs. Whenever possible, the resident or child of a resident should be involved in selecting their clothing.

b. The provider shall have and adhere to a written policy concerning any limitations regarding personal appearance. Any limitations should be related to maintaining the safety and well-being of the residents or children of residents receiving services.

c. Clothing and shoes shall be of proper size and adequate in amount to permit laundering, cleaning, and repair.

d. Clothing shall be maintained in good repair.

e. Clothing shall belong to the individual resident or child of a resident and not be required to be shared.

f. All clothing provided to a resident or child of a resident shall remain with the resident or child of a resident upon discharge.

g. The provider shall ensure residents and children of residents have access to adequate grooming services, including haircuts.

4. Independent Life Training

a. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. Individualized independent life training goals shall be included in each resident's service plan.

b. This program shall include but not be limited to instruction in:

- i. health and dental care, hygiene and grooming;
- ii. family life;
- iii. sex education including family planning and venereal disease counseling;
- iv. laundry and maintenance of clothing;
- v. appropriate social skills;
- vi. housekeeping;
- vii. use of transportation;
- viii. budgeting and shopping;
- ix. money management;
- x. cooking and proper nutrition;
- xi. employment issues, including punctuality and attendance;
- xii. use of recreation and leisure time;
- xiii. education, college, trade, and/or long-term planning/life goals;
- xiv. accessing community services; and
- xv. parenting skills.

c. In addition, residents with children shall also receive training in the following topics:

- i. parenting preparation classes;
- ii. stages of growth in infants, children and adolescents (as applicable);
- iii. day-to-day care of infants, children and adolescents (as applicable);
- iv. disciplinary techniques for infants, children, and adolescents (as applicable);
- v. child-care resources;
- vi. stress management;
- vii. life skills; and
- viii. decision making.

5. Money:

a. the provider shall permit and encourage a resident or child of a resident, as age appropriate, to possess his/her own money. The provider can give the resident or child of a resident an allowance. Residents and children of residents should be given the opportunity to earn additional money by providing opportunities for paid work, unless otherwise indicated by the resident's service plan, and reviewed every 30 days by the service plan manager;

b. money earned or received either as a gift or an allowance by a resident or child of a resident, shall be deemed to be that individual's personal property;

c. limitations may be placed on the amount of money a resident or child of a resident may possess or have unencumbered access to when such limitations are considered to be in the individual's best interests and are duly recorded in the resident's service plan or child of a resident's record. The reasons for any limitations should be fully explained to the resident, child of the resident, and their families;

d. resident's monetary restitution for damages shall only occur when there is clear evidence of individual

responsibility for the damages and the program director approves the restitution. The resident and his/her legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The resident and his/her legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages. If the provider receives reimbursement for damages either through insurance or other sources, the resident shall not be responsible for restitution;

e. the provider shall maintain a separate accounting of each resident's or child of a resident's money; and

f. upon discharge, the provider shall provide the resident, child of a resident, or legal guardian(s) any outstanding balance.

6. Work

a. The provider shall have and adhere to a written policy regarding the involvement of residents in work including:

- i. description of any unpaid tasks required of residents;
- ii. description of any paid work assignments including the pay for such assignments that are at least minimum wage;
- iii. description of the provider's approach to supervising work assignments; and
- iv. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

b. The provider shall demonstrate that any resident's work assignments are designed to provide a constructive experience and are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the resident's service plan.

c. The provider shall assign, as unpaid work, age appropriate housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated. The provider shall ensure that all such employment practices comply fully with state and federal laws and standards. No resident shall be employed in any industrial or hazardous occupation, or under any hazardous conditions.

d. When a resident engages in off-grounds work, the provider shall be responsible for ensuring the resident has access to transportation and other supports needed to perform the work successfully. The provider shall document that:

- i. such work is voluntary and in accordance with the resident's service plan;
- ii. the service plan manager approves such work;
- iii. the conditions and compensation of such work are in compliance with the Fair Labor Standards Act and other applicable state and federal laws; and
- iv. such work does not conflict with the resident's program.

C. Food Service

1. The provider shall ensure that a staff person has oversight of the total food service of the facility. This person

shall be familiar with nutrition and food service management and shall be responsible for implementation and/or delegation of:

- a. purchasing food according to the approved dietary menu;
- b. oversight of storing and handling of food;
- c. oversight of food preparation;
- d. oversight of food serving;
- e. maintaining sanitary standards in compliance with state and local regulations;
- f. orientation, training, and supervision of food service personnel to include proper feeding techniques as age appropriate;
- g. maintaining a current list of residents and children of residents with special nutritional needs;
- h. having an effective method of recording and transmitting diet orders and changes;
- i. recording information in the resident's or child of a resident's record relating to special nutritional needs; and
- j. providing information on residents' and children of residents' diets to staff.

2. The provider shall have and adhere to written policies and procedures that ensure that residents and children of residents are , on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender, and activity of the United States Department of Agriculture and doesn't deny any rights of the resident or child of a resident. Two of the three meals (breakfast, lunch, supper) served shall be hot meals. Residents and children of residents shall also be provided with a snack between meals and prior to bedtime. Breakfast shall be served within at least one hour from when residents awake.

3. The provider shall maintain a master menu, including appropriate substitutions, which is written and approved annually, by a registered dietician.

a. The provider shall post the written menu at least one week in advance in an area regularly used by residents.

b. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions. Any substitution shall be of equal nutritional value. Residents shall be allowed to provide input into these menus.

c. Written menus and records of foods purchased shall be maintained on record for one year.

4. The provider shall ensure that any modified diet for a resident or child of a resident shall be:

a. prescribed by the individual's physician, approved by the registered dietician, and identified in the resident's service plan or child of a resident's record; and

b. planned, prepared, and served by persons who have received instruction on the modified diet.

5. Condiments appropriate for the ordered diet will be available.

6. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents or children of residents, unless special dietary requirements dictate differences in diet.

7. Food provided to a resident or child of a resident shall be in accordance with his/her religious beliefs.

8. No resident or child of a resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the individual's record.

9. The provider shall have and adhere to written policies and procedures to ensure that all food shall be stored, prepared, and served under sanitary conditions. The provider shall ensure that:

a. food served to the resident or child of a resident is in a form consistent with the developmental level of the individual and with appropriate utensils;

b. food served to a resident or child of a resident not consumed is discarded;

c. food and drink purchased shall be of safe quality. Milk and milk products shall be grade A and pasteurized.

10. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to food service work areas.

11. Food shall be stored separate from cleaning supplies and equipment.

12. Food storage areas are free of rodents, roaches, and/or other pests and the provider shall take precautions to ensure such pests do not contaminate food.

13. Persons responsible for food preparation shall not prepare food if they have symptoms of acute illness or an open wound.

14. Information regarding food allergies/special diets shall be posted in the food prep area with special care so that the individual names are not in public view.

15. Children under four years of age shall not have foods that are implicated in choking incidents. Examples of these foods include but are not limited to the following: whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than what can be swallowed whole.

16. Formula for an infant prepared by or in a residential home shall be prepared in accordance with the instructions of the formula or by the techniques recommended by the physician which shall be on file at the facility.

17. Formula for an infant shall be labeled with the child's name and date of preparation.

18. Formula for an infant shall be refrigerated immediately after preparation and shall not be used more than 24 hours after preparation. The timeframe for use after preparation may be longer than 24 hours if directed by written order of a physician or as documented in the instructions of the formula. The timeframe shall not be extended beyond the physician's written recommendation or the instructions of the formula.

19. Formula shall not be heated in a microwave oven.

20. Water shall be given to infants only with written instructions from child's physician.

21. A child's bottle shall not be propped at any time.

22. Infants shall be held while being bottle-fed to provide a nurturing, safe feeding experience.

D. Health-Related Services

1. Health Care

a. The provider shall have and adhere to written policies and procedures for providing preventive, routine,

and emergency medical and dental care for residents and children of residents and shall show evidence of access to the resources. They shall include, but are not limited to, the following:

- i. ongoing appraisal of the general health of each resident and child of a resident;
- ii. provision of health education, as appropriate;
- iii. provision for maintaining current immunizations;
- iv. approaches that ensure that any medical service administered will be explained to the resident or child of a resident in language suitable to his/her age and understanding;
- v. an ongoing relationship with a licensed physician, dentist, and pharmacist to advise the provider concerning medical and dental care;
- vi. availability of a physician on a 24-hour, seven days a week basis;
- vii. reporting of communicable diseases and infections in accordance with law;
- viii. procedures for ensuring residents and children of residents know how and to whom to voice complaints about any health issues or concerns.

2. Medical Care

a. The provider shall arrange a medical examination by a physician for the resident or child of a resident within a week of admission unless the resident or child of a resident has received such an examination within 30 days before admission and the results of this examination are available to the provider. If the resident or child of a resident is being transferred from another residential home and has had a physical examination within the last 12 months, a copy of this examination may be obtained to meet the requirement of the admission physical. The physical examination shall include:

- i. an examination of the resident or child of a resident for any physical injury, physical disability, and disease;
- ii. vision, hearing, and speech screening; and
- iii. a current assessment of the resident's or child of resident's general health.

b. The provider shall arrange an annual physical examination of all residents and children of residents.

c. Whenever indicated, the resident or child of a resident shall be referred to an appropriate medical specialist for either further assessment or service, including gynecological services for female residents or children of residents. The provider shall schedule such specialist care within 30 days of the initial exam. If the specialist's service needed is a result of a medical emergency, such care shall be obtained immediately.

d. The provider shall ensure that a resident or child of a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the legal guardian, verbally and/or in writing, within 24 hours of a resident's or child of a resident's illness or injury that requires service from a physician or hospital. The notification shall include the nature of the injury or illness and any service required.

e. Records of all medical examinations, services, and copies of all notices to legal guardian(s) shall be kept in the resident's or child of a resident's record.

3. Dental Care

a. The provider shall have and adhere to written policies and procedures for providing comprehensive dental services to include:

- i. provision for dental service;
- ii. provision for emergency service on a 24-hour, seven days a week basis by a licensed dentist;
- iii. a recall system specified by the dentist, but at least annually;
- iv. dental cleanings annually; and
- v. training and prompting for residents and children of residents to brush their teeth at least twice per day.

b. The provider shall arrange a dental exam for each resident and child of a resident within 90 days of admission unless the resident or child has received such an examination within six months prior to admission and a copy of the examination is obtained by the provider. Children of residents shall begin receiving annual examinations at the eruption of their first tooth and no later than 12 months of age.

c. Records of all dental examinations, follow-ups and service shall be documented in the record.

d. The provider shall notify the legal guardian(s), verbally and/or in writing, immediately when a resident or child of a resident requires or receives dental services of an emergency nature. The notification shall include the nature of the dental condition and any service required. Notification shall be documented in the record.

4. Immunizations

a. The provider shall have and adhere to written policies and procedures regarding immunizations to ensure that:

i. within 30 days of admission, the provider shall obtain documentation of a resident's or child of a resident's immunization history, ensuring that the resident and child of a resident have received and will receive all appropriate immunizations and booster shots that are required by the Office of Public Health;

ii. the provider shall maintain a complete record of all immunizations received in the resident's or child of a resident's record.

5. Medications

a. The provider shall have and adhere to written policies and procedures that govern the safe administration and handling of all medication, to include the following:

- i. a system for documentation and review of medication errors;
- ii. self-administration of both prescription and nonprescription medications;
- iii. handling medication taken by residents and children of residents on pass; and
- iv. a plan of action for residents and children of residents who require emergency medication (e.g., Epipen, Benadryl).

b. The provider shall have a system in place to ensure that there is a sufficient supply of prescribed medication available for each resident and child of a resident at all times.

c. The provider shall ensure that medications are either self-administered or administered by persons with appropriate credentials, training, and expertise.

i. Effective August 1, 2016, providers licensed to care for children of residents or licensed to care for residents under five years of age shall have staff trained in medication administration. Trained staff shall be scheduled for each shift when residents under five years of age or children of residents under five years of age are present on the premises. Training shall be obtained every two years from an approved child care health consultant. By virtue of his/her current license, a licensed practical nurse (LPN) or registered nurse (RN) shall be considered to have medication administration training.

d. There shall be written documentation requirements for the administration of all prescription and non-prescription medication, whether administered by staff, supervised by staff or self-administered. This documentation shall include:

- i. resident's or child of resident's name, date, medication name, dosage, and time administered;
- ii. signature of person administering medication; and
- iii. signature of person witnessing resident or child of resident self-administer medication (if applicable).

e. When residents administer medication to their own children, the medication administration record shall be documented by either the resident or by facility staff as indicated in Subparagraph D.5.d of this Section.

f. If prescription medication is not administered as prescribed or resident or child of resident refuses to take medication, the physician ordering the medication shall be immediately notified and documentation noted to include:

- i. resident's or child of resident's name, date, and time;
- ii. medication name and dosage;
- iii. person attempting to administer medication, if other than resident or child of resident;
- iv. reason for refusal or medication not being given as prescribed;
- v. name of staff notifying physician's office;
- vi. date and time of notification to physician's office; and
- vii. name of person notified and next steps (if applicable).

g. The provider shall ensure that any medication given to a resident or child of resident for therapeutic and/or medical purposes is in accordance with the written order of a physician.

h. There shall be no standing orders for prescription medications.

i. There shall be standing orders, signed by the physician, for nonprescription medications with directions from the physician indicating when he/she is to be contacted. The physician shall update standing orders annually.

j. Copies of all written orders shall be maintained in the resident's or child of a resident's record.

k. Medication shall not be used as a disciplinary measure, a convenience for staff, or as a substitute for adequate, appropriate programming.

l. Prescription medications shall be reviewed and renewed on at least an annual basis by a licensed physician; however psychotropic medications shall be reviewed and renewed at least every 90 days by a licensed physician.

m. Residents and children of residents shall be informed of any changes to their medications, prior to administration of any new or altered medications.

n. Residents, staff, and, where appropriate, residents' legal guardian(s) are educated on the potential benefits and negative side effects of the medication and are involved in decisions concerning the use of the medication.

o. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the resident's or child of a resident's record and the legal guardian(s) shall be notified verbally or in writing within 24 hours.

p. Discontinued and outdated medications and containers with worn, illegible, or missing labels shall be properly disposed of according to state law.

q. Medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

i. External medications and internal medications shall be stored on separate shelves or in separate cabinets.

ii. All medication shall be kept under lock and key. Refrigerated medication shall be stored in a secure container with a lid to prevent access by children and avoid contamination of food.

r. All medications shall be maintained in the original container/packaging or as dispensed by the pharmacist.

s. A plan of care shall be developed for each resident or child of a resident who requires emergency medication (e.g., Epipen, Benadryl). The plan of care shall include:

- i. method of administration;
- ii. symptoms that would indicate the need for the medication;
- iii. actions to take once symptoms occur;
- iv. description of how to use the medication; and
- v. signature and date of program director or medical personnel.

t. Medication administration records for emergency medication shall be maintained in accordance with Subparagraph D.5.d of this Section and shall also include the following:

- i. symptoms noted that indicated the need for the medication;
- ii. actions taken once symptoms occurred;
- iii. description of how medication was administered;
- iv. signature (not initials) of the staff member who administered the medication; and

v. notification to legal guardian (date, time, and signature of person who contacted the legal guardian) following the administration of the emergency medication.

u. If the non-prescription medication label reads "to consult physician", a written authorization from a Louisiana, or adjacent state, licensed medical physician or dentist, shall be on file in order to administer the medication, and shall include the following information:

- i. child's name;
- ii. date of authorization;
- iii. medication name and strength; and

iv. clear directions for use, including the route (e.g., oral, topical), dosage, and frequency, time, or schedule of medication.

6. Professional and Specialized Services

a. The provider shall monitor that residents and children of residents receive specialized services to meet their needs; these services shall include but are not limited to:

- i. physical/occupational therapy;
- ii. speech pathology and audiology;
- iii. psychological and psychiatric services;
- iv. social work services;
- v. individual, group and family counseling; and
- vi. substance abuse counseling/drug or alcohol addiction treatment.

b. The provider shall monitor that all providers of professional and special services:

- i. record all significant contacts with the resident or child of a resident;
- ii. provide quarterly written summaries of the resident's or child of a resident's response to the service, the resident's or child of a resident's current status relative to the service, and the resident's or child of a resident's progress;
- iii. participate, as appropriate, in the development, implementation, and review of resident's service plans and aftercare plans and participates in the interdisciplinary team responsible for developing such plans;
- iv. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement service plans;
- v. provide resident assessments/evaluations as needed for service plan development and revision.

c. The provider shall monitor that any provider of professional or special services (internal or external to the facility) meets the criteria noted below:

- i. have adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;
- ii. have adequate space, facilities, and privacy;
- iii. have appropriate equipment, supplies, and resources.

d. The providers shall ensure that residents and children of residents are evaluated for specialized services in a timely manner when a need is identified.

E. Recreation

1. The provider shall have and adhere to a written policy and procedure for a recreation program that offers indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs of the residents and children of residents and the composition of the living group.

2. The provider shall provide recreational services based on the individual needs, interests, and functioning levels of the residents and children of residents served. In planning recreational programs and activities, staff should assess the ages, interests, abilities and developmental and other needs of the residents and children of residents served to determine the range of activities that are safe and appropriate. Residents and children of residents shall be allowed time to be alone and to engage in solitary activities that they enjoy. There should be opportunities for group activities to develop spontaneously, such as group singing,

dancing, storytelling, listening to music, games, etc. Recreational activities should be planned throughout the week.

3. Recreational objectives shall be included in each resident's service plan. Residents should be involved in planning and selecting activities as part of their individual service plan.

4. The provider shall provide adequate recreation and yard spaces to meet the needs and abilities of residents and children of residents regardless of their disabilities. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan. Recreational equipment should be selected in accordance with the number of residents and children of residents, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

5. The provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Unless the restriction is part of the facility's master behavior program plan, access to such community resources shall not be denied or infringed except as may be required as part of the resident's service plan. Any such restrictions shall be specifically described in the service plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

F. Transportation

1. The provider shall have and adhere to written policies and procedures to ensure that each resident is provided with transportation necessary to meet his/her needs as identified in the individualized service plan.

2. The provider shall have means of transporting residents and children of residents in cases of emergency.

3. The provider shall ensure and document that any vehicle used in transporting residents or children of residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is licensed in accordance with state law and carries current liability insurance.

4. All vehicles used for the transportation of residents or children of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

5. Preventative maintenance shall be performed on a monthly basis to ensure the vehicles are maintained in working order. The provider shall maintain documentation supporting adherence to vehicle maintenance schedules and other services as indicated.

6. Any staff member of the provider or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents or children of residents shall maintain a current driver's license. The staff member operating the vehicle shall have the applicable type of driver's license to comply with the current motor vehicle laws.

7. The provider shall not transport residents nor children of residents in the back or the bed of a truck.

8. The provider shall conform to all applicable state motor vehicle laws regarding the transport of residents and children of residents.

9. The provider shall ensure that residents and children of residents being transported in the vehicle are properly supervised while in the vehicle and during the trip. Residents nor children of residents are to be unattended in the vehicle.

10. Vehicles used to transport residents and children of residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents or children of residents.

11. The provider shall ascertain the nature of any need or problem of a resident or child of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness, or a disability. The provider shall communicate such information to the individual of any vehicle transporting residents or children of residents.

12. The following additional arrangements are required for a provider serving residents or children of residents with physical limitations:

a. a ramp device to permit entry and exit of a resident or child of a resident from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped residents or children of residents. A mechanical lift may be utilized if a ramp is also available in case of emergency;

b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;

c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

13. No resident or child of a resident shall be transported in any vehicle unless age appropriate child restraints are utilized. In addition, transportation arrangements shall conform to state laws, including but not limited to those requiring the use of seat belts and child restraints.

14. Only one resident or child of a resident shall be restrained in a single safety belt.

15. All aspects of the vehicle shall be maintained in good repair including, but not limited to proper working order of doors, lights, tires, etc.

a. ventilation and heating systems shall be operational and used to maintain a comfortable temperature during transport;

b. the vehicle's engine shall be maintained in working mechanical order;

c. the vehicle's interior shall be clean and free of trash and debris;

d. the vehicle's seat coverings shall be in good repair;

16. The use or possession of alcohol, tobacco in any form, illegal substances or unauthorized potentially toxic substances, firearms (loaded or unloaded), or pellet or BB guns (loaded or unloaded) in any vehicle used to transport residents or children of residents is prohibited.

17. The number of persons in a vehicle used to transport residents or children of residents shall not exceed the manufacturer's recommended capacity.

18. The vehicle shall have evidence of a current safety inspection.

19. A visual inspection of the vehicle is required to ensure that no child of a resident or resident was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. For field trips, staff shall check the vehicle and conduct a face-to-name count conducted prior to leaving facility for the destination, when destination is reached, before departing destination for return to facility, and upon return to facility. For all other transportation, the staff shall inspect the vehicle at the completion of each trip prior to the staff person exiting the vehicle. The staff conducting the visual check for all transportation, shall document the time of the visual check inspection and sign his or her full name, indicating that no child of a resident or resident was left on the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:278 (February 2017).

§7119. Physical Environment

A. Physical Appearance and Conditions

1. The provider shall maintain all areas of the facility accessible to residents and children of residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

2. The provider shall have an effective pest control program to prevent insect and rodent infestation.

3. The provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on at least a weekly basis.

b. Trash collection receptacles shall be separate from play area.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades; cliffs, open pits, swimming pools, high voltage boosters or high-speed roads (45 mph or higher) shall be fenced or have natural barriers to protect residents and children of residents.

e. Playground equipment shall be so located, installed, and maintained as to ensure the safety of residents and children of residents.

4. Residents and children of residents shall have access to safe, suitable, outdoor recreational space and age appropriate equipment.

5. The provider shall have at least 75 square feet of accessible exterior space for each resident. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

6. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, the outdoor play space shall be enclosed with a permanent fence or other permanent barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper

supervision, and to prevent contact with animals or unauthorized persons.

7. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, all air conditioning/heating units, mechanical equipment, electrical equipment, or other hazardous equipment shall be inaccessible to children.

8. Culverts are prohibited within outdoor play spaces.

9. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, areas where there are open cisterns, wells, ditches, fish ponds, swimming pools, and other bodies of water shall be made inaccessible to children by fencing and locked gates.

10. All equipment used by residents and children of residents shall be maintained in a clean, safe condition and in good repair.

11. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, all poisons, cleaning supplies, harmful chemicals, equipment, tools, kitchen knives or potentially dangerous utensils, and any substance with a warning label stating it is harmful to or that it should be kept out of reach of children, shall be locked away from and inaccessible to children. Whether these items are in a cabinet or in an entire room, the area shall be locked.

12. The use or possession of alcohol, tobacco in any form, illegal substances, or unauthorized potentially toxic substances on the premises of the residential home is prohibited.

B. Interior Space

1. The provider shall have and adhere to policies and procedures to ensure that the facility maintains a safe, clean, orderly, and homelike environment.

2. All equipment, furnishings, and interior spaces shall be clean and maintained at all times. The provider shall have a program in place to monitor regular maintenance, preventative maintenance, cleaning and repair of all equipment and furnishings that is performed on a routine basis. Written documentation of the maintenance and cleaning program activities shall be maintained by administration to include cleaning schedules and reports of repairs.

3. The facility shall have sufficient living and program space available for residents and children of residents to gather for reading, study, relaxation, structured group activities, and visitation. Space shall be available that allows for confidentiality for family visits, counseling, groups, and meetings. The living areas shall contain such items as television, stereo, age-appropriate books, magazines, and newspapers.

4. A facility shall have a minimum of 60 square feet of unencumbered floor area per resident in living and dining areas accessible to residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas, and office areas.

5. Each child shall be provided with an opportunity to safely and comfortably sit, crawl, toddle, walk, and play according to the child's stage of development and in a designated space apart from sleeping quarters each day in order to enhance development.

6. Computers that allow internet access by the residents or children of residents shall be equipped with

monitoring or filtering software, or an analogous software protection, that limits access to inappropriate websites, e-mail, and instant messages.

7. Programs, movies, and video games shall be age appropriate.

8. A variety of books, educational materials, toys, and play materials shall be provided, organized, and displayed within resident's and children of resident's reach so that they may select and return items independently.

9. At least one corded land line capable of incoming and outgoing calls for emergency purposes shall be accessible to residents and children of residents at all times at the facility.

C. Dining Areas

1. The provider shall have dining areas that permit residents, children of residents, staff, and visitors to eat together and create a homelike environment.

2. Dining areas shall be clean, well lit, ventilated, and equipped with dining tables and appropriate seating for the dining tables.

3. Highchairs shall be used in accordance with the manufacturer's instructions including restrictions based on age and minimum/maximum weight of infants and children. Staff shall ensure that the highchair manufacturer's restraint device is used when children are sitting in the highchair. Children who are too small or too large to be restrained using the manufacturer's restraint device shall not be placed in the highchair. Provider shall take into account the child's developmental stage, tolerances, and ability to sit up safely by themselves.

D. Bedrooms

1. Each resident and child of a resident shall have his/her own designated area for rest and sleep.

2. The provider shall ensure that each single occupancy bedroom space has a floor area of at least 70 square feet of unencumbered space and that each multiple occupancy bedroom space has a floor area of at least 60 square feet of unencumbered space for each occupant.

3. The provider shall not use a room with a ceiling height of less than 7 feet 6 inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 feet 6 inches are allowed in determining usable space.

4. The bedroom space for residents and children of residents shall be decorated to allow for the personal tastes and expressions of the residents and children of residents.

5. Any provider that licenses beds subsequent to April 2012, shall have bedroom space that does not permit more than two residents per designated bedroom space. All others shall not exceed four residents to occupy a designated space.

6. No resident or child of a resident over the age of five years shall occupy a bedroom with a member of the opposite sex, unless that individual is the child's parent in accordance with R.S. 46:1403 or the child's sibling.

7. The provider shall ensure that the age of residents sharing bedroom space is not greater than four years in difference unless contraindicated based on family dynamics.

8. Each resident and child of a resident age 1 year and above shall have his/her own bed. The bed shall be longer than the resident or child of a resident is tall, no less than 30 inches wide, and shall have a clean, comfortable, nontoxic, fire retardant mattress.

9. The provider shall ensure that sheets, pillow, bedspread, and blankets are provided for each resident and child of a resident:

a. enuretic residents and children of residents shall have mattresses with moisture resistant covers; and

b. sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary. Sheets and coverings shall be changed immediately when soiled or wet.

10. Each resident shall have a solidly constructed bed. Cots or other portable beds shall be used on an emergency basis only and shall not be in use for longer than one week.

11. All bunk beds in use in a residential home shall be equipped with safety rails on the upper tier for a child under the age of 10, or for any child whose physical, mental, or emotional condition indicates the need for such protection. A child under 6 years of age shall not sleep on the upper bunk of a bunk bed. No beds shall be bunked higher than two tiers. The provider shall ensure that- the uppermost mattress of any bunk bed shall be far enough from the ceiling to allow the occupant to sit up in bed.

12. Each resident shall have his/her own nightstand. Each resident shall have his/her own dresser or other adequate storage space for private use in the bedroom.

13. There shall be a closet for hanging clothing in proximity to the bedroom occupied by the resident and child of a resident. For beds licensed after April 2012, there shall be a closet for hanging clothing within the bedroom or immediately adjacent to the bedroom. The closet shall not be within a bathroom.

14. No resident and her child shall share a bedroom with another resident.

15. A resident shall not be allowed to sleep in the same bed with her child.

E. Bathrooms

1. The facility shall have an adequate supply of hot and cold water.

2. The facility shall have toilets and baths or showers that allow for individual privacy. For beds licensed after April 2012, the following ratio shall be met. Whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed.

Lavatories	1:6 resident beds
Toilets	1:6 resident beds
Showers or tubs	1:6 resident beds

3. Bathrooms shall be so placed as to allow access without disturbing other residents or children of residents during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, and soap.

5. Tubs and showers shall have slip-proof surfaces.

6. Bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the residents' and children of residents' basic hygienic needs.

7. Each resident and child of a resident shall be provided personal hygiene items such as hairbrushes, toothbrushes, razors, etc.

8. Bathrooms shall be equipped to facilitate maximum self-help by residents and children of residents. Bathrooms shall be large enough to permit staff assistance of residents and children of residents, if necessary.

9. Toilets, washbasins, and other plumbing or sanitary facilities in a facility shall be maintained in good operating condition.

F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals for all of the residents, children of residents, and staff regularly served. All equipment shall be maintained in proper working order.

2. The provider shall not use disposable dinnerware at meals except for special occasions such as picnics or barbecues or in an emergency situation unless the facility documents that such dinnerware is necessary to protect the health or safety of residents or children of residents in care.

3. The provider shall ensure that all dishes, cups, and glasses used by residents and children of residents are free from chips, cracks, or other defects and are in sufficient number to accommodate all the residents and children of residents.

4. Animals, other than those used as service animals, shall not be permitted in food storage, preparation, and dining areas.

G. Laundry Space. The provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff and their children.

I. Administrative and Discussion Space

1. The provider shall provide a space that is distinct from residents' and children of residents' living areas to serve as an administrative office for records, secretarial work, and bookkeeping.

2. The provider shall have a designated space to allow private discussions between individual residents, children of residents, and staff. If there is a window in the space, it shall have a covering to provide privacy during private discussions.

3. There shall be a covering on the window.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents and children of residents shall be appropriately designed to suit the size and capabilities of these residents and children of residents.

2. The provider shall replace or repair broken, run-down, or defective furnishings and equipment promptly.

K. Doors and Windows

1. When opened, all windows shall have insect screening. This screening shall be readily removable in emergencies and shall be in good repair.

2. All closets, bedrooms, and bathrooms shall have doors that allow egress from both sides.

3. Each window shall have a covering to provide privacy unless otherwise stipulated in the service plan.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets, and outlets are maintained in good order and safe condition.

2. The provider shall ensure that any room, corridor, or stairway within a facility shall be well lit.

3. The provider shall ensure that exterior areas are well lit when dark.

N. Heating, Ventilation and Air Conditioning (HVAC)

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures in all indoor public and private areas of the facility in all seasons of the year.

2. The provider shall not use open flame heating equipment.

3. The use of portable heaters by the residents, staff, and children of residents are strictly prohibited, unless in an emergency situation.

4. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of residents and children of residents.

O. Safe Sleep Practices and Infant Furnishings

1. Only one infant shall be placed in each crib. All infants shall be placed on their backs for sleeping.

a. Written authorization from the child's physician is required for any other sleeping position. A notice of exception to this requirement shall be posted on or near the infant's crib and shall specify the alternate sleep position.

b. Written authorization from the child's physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is to remain in said device. The written authorization shall be updated every three months and as changes occur.

2. Infants shall not be placed in positioning devices for sleeping unless the child has a note on file from the child's physician authorizing the device.

3. Infants who use pacifiers will be offered their pacifier when they are placed to sleep and it shall not be placed back in the mouth once the child is asleep.

4. Bibs shall not be worn by any child while asleep.

5. Infants shall not sleep in an adult bed, on a couch, or in a chair.

6. A safety-approved crib shall be made available for each infant.

a. Effective December 28, 2012, each crib in use shall meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 *Code of Federal Regulations* (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

b. A crib meets the requirements of this Section if:

i. the crib has a tracking label which notes that the crib was manufactured on or after June 28, 2011; or

ii. the provider has a registration card which accompanies the crib and notes that the crib was manufactured on or after June 28, 2011; or

iii. the provider has obtained a children's product certificate (CPC) certifying the crib as meeting requirements for full-size cribs as defined in 16 *Code of Federal Regulations* (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

7. Each crib shall be equipped with a firm mattress and well fitting sheets. Mattresses shall be of standard size so that the mattress fits the crib frame without gaps of more than one-half inch. Homemade mattresses are prohibited.

8. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches at the highest point.

9. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

10. Stackable cribs are prohibited.

11. Children sleeping in playpens or mesh-sided cribs is prohibited.

12. Cribs shall be free of toys and other soft bedding, including blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the child is in the crib.

13. Nothing shall be placed over the head or face of the infant.

14. While residents are awake, napping infants shall be checked on at least every 30 minutes.

P. Care of Children

1. Diapers shall be changed immediately when wet or soiled.

2. While awake, children shall not remain in a crib/baby bed, swing, high chair, carrier, playpen, etc., for more than 30 consecutive minutes.

3. Pacifiers attached to strings or ribbons shall not be placed around a child's neck or attached to a child's clothing.

4. Staff shall adhere to proper techniques for lifting a child. Staff shall not lift a child by one or both of child's arms.

5. Children shall be changed and cleaned immediately following a toileting accident.

6. A child's request for toileting assistance shall be responded to promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:828 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:285 (February 2017).

§7121. Emergency Preparedness

A. Emergency Plan

1. The provider, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect residents and children of residents in the event of any emergency. The written overall plan of emergency procedures shall:

a. provide for the evacuation of residents and children of residents to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned

and unplanned evacuations to alternate locations within the city and long distance evacuations;

b. provide for training of staff and, as appropriate, residents and children of residents in preventing, reporting, and responding to fires and other emergencies. The plan shall be reviewed with all staff at least annually. Documentation evidencing that the plan has been reviewed with all staff shall include staff signatures and date reviewed;

c. provide for training of staff in their emergency duties for all types of emergencies and the use of any fire fighting or other emergency equipment in their immediate work areas;

d. provide for adequate staffing in the event of an emergency;

e. ensure access to medication and other necessary supplies or equipment;

f. include shelter in place, lock down situations, and evacuations with regard to natural disasters, manmade disasters, bomb threats, and national security threats;

g. be appropriate for the area in which the facility is located and address any potential disaster due to that particular location;

h. include a system to account for all residents and children of residents whether sheltering in place, locking down, or evacuating to a pre-determined relocation site;

i. include lock down procedures for situations that may result in harm to persons inside the facility, including but not limited to a shooting, hostage incident, intruder, trespassing, disturbance, or any situation deemed harmful at the discretion of the program director or public safety personnel;

j. account for residents and children of residents and ensure that no one leaves the designated safe area in a lock down situation. Staff shall secure facility entrances, ensuring that no unauthorized individual enters the facility;

k. include an individualized emergency plan (including medical contact information and additional supplies/equipment needed) for each resident and child of a resident with special needs;

l. ensure that residents and children of residents who are prescribed prescription medication are able to receive medication if evacuated from facility;

m. include plans for nuclear evacuation if the facility is located within a 10-mile radius of a nuclear power plant or research facility;

n. include emergency contact information for staff in the event evacuation from the facility is necessary.

2. At a minimum, the plan shall be reviewed annually by the program director for accuracy and updated as changes occur. Documentation of review by the program director shall consist of the program director's signature and date.

3. The emergency and evacuation plan shall be submitted to the Licensing Section at least annually, any time changes are made, and upon the request of the Licensing Section.

4. If evacuation of children from the facility is necessary, provider shall have an evacuation pack and all staff shall know the location of the pack. The contents shall be replenished as needed. At a minimum, the pack shall contain the following:

a. hand sanitizer;

b. wet wipes;

c. tissue;

d. diapers for children who are not yet potty trained;

e. plastic bags;

f. food for all ages of children, including infant food and formula;

g. disposable cups; and

h. bottled water.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

B. Drills

1. The provider shall conduct fire drills at least once per month. There shall be at least one drill per shift every 90 days, at varying times of the day and the drills shall be documented. Effective August 1, 2016, documentation shall include:

a. date and time of drill;

b. names of residents and children of residents present;

c. amount of time to evacuate the facility;

d. problems noted during drill and corrections noted; and

e. signatures (not initials) of staff present.

2. The provider shall make every effort to ensure that staff, residents, and children of residents recognize the nature and importance of fire drills.

C. Notification of Emergencies

1. The provider shall immediately notify the Licensing Section, other appropriate agencies, and the resident's legal guardian of any fire, disaster, or other emergency that may present a danger to residents or children of residents or require their evacuation from the facility.

D. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either prominently post telephone numbers of emergency services on or near each phone located in the facility, including the fire department, police department, medical facility, poison control (1-800-222-1222), ambulance services, 911, the facility's physical address or show evidence of an alternate means of immediate access to these services.

3. The provider shall ensure direct care staff can access emergency services at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:830 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:288 (February 2017).

§7123. Safety Program

A. Policies and Procedures

1. The provider shall have and adhere to policies and procedures for an on-going safety program that includes continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all incidents.

B. General Safety Practices

1. The use or possession of any firearm (loaded or unloaded), pellet or BB gun (loaded or unloaded), or chemical weapon on the premises of the residential home is prohibited with the exception of law enforcement personnel.

2. The provider shall ensure that all poisonous, toxic, and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff, children of residents, and visitors.

3. The provider shall ensure that a first aid kit is available in the living units and in all vehicles used to transport residents or children of residents.

4. The provider shall prohibit the use of candles in the facility.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall allow residents and children of residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross basic water rescue or equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:831 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:289 (February 2017).

Marketa Garner Walters
Secretary

1702#033

RULE

Department of Culture, Recreation and Tourism Office of State Parks

State Parks (LAC 25:IX.Chapters 1-11)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:201-209, the Department of Culture, Recreation and Tourism has amended its regulations to perform general editing, update provisions pertaining to various facilities and programs, increase fees, and to remove outdated references pertaining to federal programs.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 1. General Provisions

§101. Definitions

A. As used by the Office of State Parks (OSP) in association with the operation of its holdings and public facilities:

Assistant Secretary—the assistant secretary of the office of state parks is executive head of the office and is appointed by the lieutenant governor with consent of the Senate. This officer is subject to the overall direction and control of the secretary of the Department of Culture, Recreation and Tourism (DCRT) while having direct responsibility for the policies of the OSP, and for the administration, control and operation of the functions, programs and affairs of the office.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1979 (August 2005), LR 36:1225 (June 2010), LR 43:290 (February 2017).

Chapter 3. General Provisions

§301. General Authority and Purpose

A. - C. ...

D. The programs and activities of the OSP are open to all qualified persons regardless of race, color, national origin, religion, age or disability. If anyone believes he or she has been discriminated against in any OSP program, activity or facility, he or she may file a complaint alleging discrimination with either the OSP or the Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 31:1980 (August 2005), LR 36:1225 (June 2010), LR 43:290 (February 2017).

§303. Park Property and Environment

A. - D. ...

E. Once a carrying capacity for an OSP site has been reached, or when additional visitors would adversely impact the site, the site manager is authorized to close the site to incoming visitors.

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 26:25 (January 2000), LR 27:1673 (October 2001), LR 31:1980 (August 2005), LR 36:1226 (June 2010), LR 43:290 (February 2017).

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on all OSP sites.

B. - C. ...

D. No person shall operate a vehicle in excess of 15 miles per hour on any OSP sites unless otherwise posted.

E. No motor vehicle shall be operated on OSP sites without being properly licensed by the appropriate regulatory agencies.

1. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed. Multiple-passenger wheeled devices powered by electric or gas motors (e.g., golf carts) are permitted to transport persons with mobility disabilities within the campgrounds. The disabled visitor must be a passenger in the vehicle.

2. Golf carts may be driven by licensed and insured drivers on the roadways at OSP sites where such use is specifically authorized by law or by the assistant secretary.

3. Low-speed electric bicycles (electric motor of less than 750 watts, 1 hp) are treated like bicycles.

4. As new wheeled devices powered by electric motors are developed, exceptions to this provision may be granted in advance on a case-by-case basis.

F. - H. ...

I. Off-highway vehicles (OHV) are prohibited on OSP sites, including back country trails, except as set forth in this Section.

1. OHVs are permitted on established OHV trails at South Toledo Bend State Park, subject to compliance with the following rules by OHV riders (i.e., both operators and passengers).

a. OHV riders must possess on person a valid OHV permit issued by the OSP.

i. Single use OHV permits may be obtained from the South Toledo Bend entrance station.

ii. Annual OHV permits may be obtained from the South Toledo Bend entrance station or the OSP administrative office in Baton Rouge.

b. OHV riders shall wear a U.S. Department of Transportation and/or Snell-approved helmet.

c. OHV riders should wear appropriate personal protective clothing such as eye protection, gloves, boots, long-sleeve shirt, and long pants.

d. OHV riders shall stay on established OHV trails. Cross-country riding is prohibited.

e. OHV riders shall ensure the OHV has a properly functioning spark arrestor and a muffler that does not exceed 90dB.

f. OHV riders shall not possess, consume, or be under the influence of alcoholic beverages.

g. OHV riders shall only use OHV trails while the OHV trails are open.

i. OHV trails are open from 8 a.m. to 5 p.m. from October 1 through March 31.

ii. OHV trails are open from 8 a.m. to 7 p.m. from April 1 through September 30.

iii. OHV trails may be closed by the OSP for management reasons.

h. OHV riders must be 7 years of age or older.

i. OHV riders between the ages of 7-17 must be under the continuous and direct supervision of an adult age 18 or older.

2. OHVs use is permitted on other OSP sites only by OSP staff, contractors, and agents or with prior written consent of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 26:25 (January 2000), LR 31:1980 (August 2005), LR 39:1264 (May 2013), LR 43:290 (February 2017).

§307. Watercraft

A. Federal, state, and local laws, rules and ordinances related to the use of watercraft shall be enforced. All watercraft located on or adjacent to any site must be operated in a careful and reasonable manner, and such operation is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard. Boaters must abide by posted park operational hours.

B. ...

C. Watercraft shall be launched only from designated boat ramps or launching areas within a site.

D. A person renting a watercraft must return the watercraft to the original docking location after use, and secure the boat from unauthorized use.

E. No watercraft may be operated in a designated swimming area or in any other area designated as a non-boating area by signs or any area otherwise restricted from boat operation or docking.

F. Watercraft left docked and unattended must be properly secured in designated areas only. The OSP will not be responsible for any loss, theft or damage to watercraft, equipment, personal property or supplies left unattended.

G. Watercraft will be considered abandoned if left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any watercraft capable of carrying five or more persons for hire; any watercraft having a water displacement of five tons or more, whatever the length; or any watercraft from which commercial activities are conducted, e.g., shrimping, crabbing, fishing, etc.) are prohibited from using any OSP facility without the written consent of the assistant secretary. Prohibited uses include, but are not limited to, loading or unloading of materials, boarding of persons, operating power equipment and non-emergency repair work.

I. ...

J. Water skiing and related activities such as wake boarding, knee boarding, tubing, and banana rides are permitted only in designated areas, and at the participants' own risk.

K. Personal watercrafts (defined as any one or more person jet propelled craft such as a Jet Ski or Sea-Doo) are prohibited at Poverty Point Reservoir, Chicot Lake, Hodges Gardens Lake and in any portion of any site posted as a "no ski zone."

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:1981 (August 2005), LR 36:1226 (June 2010), LR 39:1265 (May 2013), LR 43:291 (February 2017).

§308. Poverty Point Reservoir State Park

A. All of the restrictions on and requirements for operating watercraft in Poverty Point Reservoir State Park listed in this Section are in addition to those restrictions and requirements found elsewhere in these OSP rules and regulations. These Section rules apply only to Poverty Point Reservoir State Park's visitors. No part of this Section however, shall be construed so as to nullify, in whole or in part, any other Section of the OSP rules and regulations as they exist.

B. Watercraft owners and their invitees must enter the marina from designated entry points.

C. Operation of Watercraft. Individuals are prohibited from all of the following:

1. operating a watercraft at a speed greater than headway speed (i.e., the minimum speed required to maintain steering) within 50 feet of a shoreline, structures or swimmers;

2. operating a watercraft at a speed greater than 20 mph or minimum planing speed (whichever is less) between sunset and sunrise;

3. operating a watercraft where the idle volume is greater than 85 decibels. Further, if a watercraft is equipped with an optional exhaust noise suppression device, the device must be engaged while the watercraft is within a no-wake zone;

4. operating a watercraft without a current day use receipt or "resident boat permit."

D. No person shall moor any watercraft to any buoy or other man-made structure not specifically intended for mooring.

E. Skiing and/or towing of persons behind a watercraft is prohibited outside of designated skiing areas.

F. Skiing and/or towing of persons behind a watercraft is prohibited in all areas between sunset and sunrise.

G. Use of the Marina Complex. All visitors to the marina, whether watercraft owners or their invitees, are prohibited from:

1. storing hazardous or flammable materials in the slip area (with the exception of normal fuel storage in moored watercraft);

2. performing or allowing to be performed any major repairs or maintenance to a watercraft moored in the marina. Major repairs or maintenance include any activities that pose a safety hazard or nuisance or infringe on the enjoyment of the marina by others;

3. - 5. ...

6. fueling, or allowing to be fueled any watercraft outside designated fueling areas;

7. - 10. ...

H. All watercraft owners must complete and submit a signed "marina slip rental agreement" along with any required payments and/or deposits due prior to using a rental slip.

I. Watercraft owners and their invitees shall be responsible for maintaining the marina facilities available for their use. To that end, every watercraft owner and invitee shall:

1. remove all refuse from the watercraft and slip and place in the designated receptacles;

2. ...

3. place all storage lockers only on the end of dock fingers so as not to interfere with the view or access of other watercraft owners;

4. provide the park office with keys to both the storage locker and the watercraft to be used for emergency purposes only;

5. - 6. ...

J. Personal watercraft are prohibited at Poverty Point Reservoir.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 31:1981 (August 2005), amended LR 36:1226 (June 2010), LR 43:291 (February 2017).

§309. Horseback Riding, Livestock, Animals and Pets

A. ...

B. Any pet brought on OSP property must be leashed, caged or crated. Leashes shall not exceed 6 feet in length. With the exception of service animals, pets are not permitted within buildings or other enclosed structures on site, nor are they allowed near designated swimming areas and in

overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

C. No person shall allow livestock to run or graze on any OSP site, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1226 (June 2010), LR 43:292 (February 2017).

§310. Litter, Sanitation and Health

A. - B. ...

C. No person shall clean fish or other food, or wash clothing or articles of household use except in designated areas. No person shall clean, field dress, or have in open view on OSP property any harvested animal or animals, except in association with an OSP-approved management hunt or event.

D. - G. ...

H. A person may enter an OSP site for the sole purpose of using the dump station facilities. General admission fees plus a \$5 dump station use fee apply to such use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1227 (June 2010), LR 43:292 (February 2017).

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife in OSP sites, including reptiles and amphibians, is under strict protection and must not be hunted, molested, disturbed, trapped, destroyed, fed or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on OSP property for the purpose of hunting inside or adjacent to a site is prohibited unless approved in advance and in writing by the assistant secretary.

C. - E. ...

1. No more than 50 yo-yos or trigger devices allowed per person.

2. Each yo-yo or trigger device must be clearly tagged with the name, address and telephone number of the owner/user.

3. All fish or any wildlife caught or hooked must be immediately removed from the device.

4. Each yo-yo or trigger device must be re-baited at least once every 24 hours.

5. The placement of any artificial object to anchor a yo-yo or trigger device is prohibited.

6. Except for an object used strictly in the construction of a pier, boathouse, seawall, or dock, no object which is driven into the lake bottom, a stump, tree, or shoreline shall be used to anchor a yo-yo or trigger device. *Object* means rebar or other metal material, cane, PVC tubing, construction material, or any other type of material.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:1982 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013), LR 43:292 (February 2017).

§314. Swimming

A.

B. All children under 12 years of age must be accompanied by an adult at any swimming area or water playground.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013), LR 43:293 (February 2017).

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is prohibited.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages at a site. This includes the authority to prohibit the consumption of alcohol in designated areas within an OSP site. The lawful consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the site by other OSP site users.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005), LR 39:1265 (May 2013), LR 43:293 (February 2017).

§321. Fines and Enforcement

A. - B. ...

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013), LR 43:293 (February 2017).

§329. Closures

A. The assistant secretary or his designee may direct the closing of a site or a facility to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the site to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 43:293 (February 2017).

§330. Day-Use Facilities

A. - B. ...

C. Permittees waive and release all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 31:1984 (August 2005), LR 43:293 (February 2017).

§331. Overnight-Use Facilities

A. - A.5. ...

6. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without advanced approval of the park manager may result in additional charges and denial of future use of OSP facilities.

7. Overnight users must observe quiet hours between the hours of 9 p.m. and 6 a.m. Playing music or other loud activities that adversely affect the use and enjoyment of the site by other site users is a violation of quiet hours.

8. Overnight users shall not erect or display unsightly, obscene, or inappropriate structures or features which, in the opinion of the site manager, may create a disturbing or otherwise unpleasant condition detrimental to the general site use.

9. ...

10. No person shall be permitted to reside at any OSP site, except for assigned OSP staff and their immediate family.

11. - 12.

13. Upon departure, the user must ensure that the facility is vacated in good repair and in the same condition in which it was occupied. Trash must be disposed of and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

B. Camping

1. With the exception of a campground host and long term stay campsites, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at an OSP site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. No person shall occupy a campsite for more than 23 days in any 30-day period. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. OSP campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. Day use guests may visit overnight campers at their campsites between the hours of 8 a.m. and 9 p.m.

4. At designated group camping areas occupancy limits are set by the site manager or his designee.

5. - 5.e. ...

6. Upon termination of any use permit, the facility must be vacated in good repair and in the same condition in which it was occupied. Where applicable, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

C. - C.3. ...

4. The maximum overnight (9 p.m. to 8 a.m.) capacity for cabins and lodges is the listed bedding accommodations. A \$15 fee per person will be charged to the permittee for additional persons up to the listed maximum sleeping capacity of the facility.

5. The maximum overnight (9 p.m. to 8 a.m.) capacity for a group camp is the maximum sleeping capacity of the group camp facility.

6. The maximum daytime (8 a.m. to 9 p.m.) capacity for cabins, lodges and group camps is double the sleeping capacity or posted fire marshal occupancy of the facilities. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:1984 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013), LR 43:293 (February 2017).

§333. Boundary Designation/Property Posting

A. - B. ...

* * *

C. Criteria for Posting and Establishing Boundaries

1. Except where posting is deemed unnecessary, boundaries of developed and undeveloped property shall be posted in accordance with OSP policies and procedures approved by the assistant secretary.

D. Penalties

1. - 2. ...

3. No person shall enter an OSP site when the OSP site is closed.

4. No person shall enter an OSP site without proper registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 11:100 (February 1985), amended LR 12:89 (February 1986), LR 31:1985 (August 2005), LR 43:294 (February 2017).

Chapter 5. Procedures and Fees

§500. Admission Fees and Exemptions

A. State Parks—General Admission Fees

1. Except as otherwise provided in this Chapter, a general admission fee is charged at all state parks as follows.

	State Parks	Hodges Gardens SP
Visitors (age 4-61) in non-commercial vehicles, walk-in visitors, visitors on bicycles	\$3 per person, per day	\$7 per person, per day

	State Parks	Hodges Gardens SP
Children 3 and under	Free	Free
Seniors 62 and older	Free	Free
Persons, regardless of age, arriving by bus	\$75 per bus, per day	\$75 per bus, per day

Bus—a bus used as a public conveyance, whether privately or commercially owned and operated, that is capable of transporting 20 or more persons.

2. St. Bernard State Park General Admission Fees

a. The general admission fee at St. Bernard State Park is \$2 per person 16 years of age and older and \$1 per person under 16 years of age with a maximum of \$5 per vehicle for all passengers in that vehicle.

b. Except there shall be no admission fee for St. Bernard and Plaquemines Parish residents on Sundays.

c. An annual vehicle permit may be obtained from the park office by St. Bernard and Plaquemines Parish residents only. The annual vehicle permit fee is \$25. The annual vehicle permit will be in the form of a windshield decal. There will be no admission charge at any time for anyone entering the park as a passenger or driver of a vehicle with a decal.

d. OSP will replace the annual permit decal, free of charge, when presented with a current year decal if a windshield or vehicle has been replaced.

B. ...

1. General Admission Fees for State Historic Sites

a. Except as otherwise provided in this Chapter, a general admission fee of \$4 per person is charged at all state historic sites.

b. Children age 3 and under are free.

c. ...

2. Locust Grove SHS and Los Adaes SHS have no general admission fee.

3. - 3.a. ...

- i. \$15 per adult (ages 18 to 61);
- ii. \$10 per senior citizen (ages 62 and over);
- iii. \$6 per child (ages 4 to 17);
- iv. free for children (ages 3 and under).

b. ...

- i. \$7 per adult (ages 18 to 61);
- ii. \$7 per senior citizen (ages 62 and over);
- iii. \$5 per student (ages 4 to 17);
- iv. free for children (ages 3 and under).

c. Organized groups of 20 or more are requested to notify the site manager in advance of their arrival. Special entry rates may apply to organized groups, set by the assistant secretary or his designee.

4. - 4.a. ...

- i. \$10 per adult (ages 18 to 61);
- ii. \$8 per senior citizen (ages 62 and over);
- iii. \$5 per student (ages 4 to 17);
- iv. free for children (ages 3 and under).

b. ...

- i. \$5 per person (ages 4 and over);
- ii. free for children (ages 3 and under).

5. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. Except as otherwise provided in this Chapter, there is no additional fee for SHS visitors arriving by bus.

6. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

C. ...

D. All admission fees include applicable state and local taxes.

E. Admission fees may be subject to a discount or surcharge in association with special events and uses, if approved by the assistant secretary.

F. A self-service fee system may be used to collect user fees on areas not normally served by an entrance control station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013), LR 43:294 (February 2017).

§501. Day-Use Fees; Miscellaneous Services, Privileges, and Facility Fees

A. Boating

1. Boat Launch Fees

a. In addition to the general admission fee and all other applicable user fees, a boat launch fee of \$5 is charged to all vehicles entering the park with motorized watercraft.

b. An annual boat launch permit can be purchased at a cost of \$75 from the OSP administrative office in Baton Rouge. The permit includes admission for one person; all others pay the general admission fee.

2. OSP Rental Boats. Rental boats, including flat bottom, motor, canoes, and kayaks, are available at most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity. Boats may be rented from OSP at the following rates.

a. Flat bottom boats with three life jackets and two paddles may be rented for \$20 per boat, per day.

b. Canoes with two life jackets and two paddles may be rented for \$7 per hour or \$25 per vessel, per day.

c. Kayaks with life jacket(s) and paddle(s) and paddle boats with life jacket(s) may be rented for \$7 per hour or \$35 per vessel, per day. Number of included life jackets and paddles equals watercraft seating capacity.

d. A guided canoe float trip is charged \$30 per canoe, per trip. All fees include paddles and life jackets.

e. All fees include indicated number of life jackets and paddles. Additional paddles and life jackets are available at a rental fee of \$2 each per day.

3. At some sites rental boats, kayaks, canoes and other watercraft may be available through a concessionaire. Visitors should contact the site to check availability and rates. Visitors utilizing these services are subject to general admission fees.

B. Swimming Pools

1. In addition to the general admission fee and all other applicable user fees, the fees to enter the Bayou Segnette SP wave pool are:

a. visitors 48" in height or taller—\$13 per person, per day;

b. visitors under 48" in height—\$10 per person, per day.

i. The price includes one flotation device per person.

ii. Discount coupons are available when purchased in quantity lots.

2. In addition to the general admission fee and all other applicable user fees, the fee to enter any other OSP swimming pool complex is \$3 per person, per day.

C. Golf Carts

1. A golf cart usage fee of \$10 a day is charged for all approved golf carts.

2. An annual golf cart pass can be purchased at a cost of \$100 by contacting the OSP administrative office in Baton Rouge.

D. Marina Boat Slips

1. Boat slips in the Poverty Point Reservoir State Park marina are available for \$15 per night or, under an annual contract, for \$625 per year.

E. Trail Riding

1. Equestrian. Designated trails are available for equestrian use, subject to the following fees.

a. In addition to the general admission fee and all other applicable user fees, an equestrian trail use fee of \$3 is charged per horse. Visitors are required to produce documents for each animal as proof the animal is reasonably free of contagious pathogens (e.g. equine infectious anemia laboratory test showing proof of negative Coggins test).

b. At some OSP sites horseback riding may be available through a concessionaire. Visitors should contact the site to check availability and rates. Visitors utilizing these services are subject to general admission fees.

2. Off-Highway Vehicle (OHV). OHVs are permitted on designated trails at South Toledo Bend State Park.

a. A single-use OHV permit fee of \$15 per OHV may be purchased at South Toledo Bend SP entrance station.

b. An annual OHV permit fee of \$100 per OHV may be purchased by contacting the OSP administrative office in Baton Rouge and the entrance station of South Toledo Bend SP. Permits are valid for permit holder and one OHV only. These are the only annual permits valid for OHV trail use.

3. Bicycles. Where available, bicycles may be rented for \$7 per hour or \$25 per day.

F. Group Rental Pavilions

1. Group rental pavilions are available at most state parks and state historic sites.

2. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. These group pavilions can be reserved in advance with payment of the rental fee.

3. Reserved pavilions will be posted, indicating the name of the party and date of use. When such pavilions are not so posted or reserved, they are available to the site visitors on a first-come, first-served basis.

4. In addition to the rental fee, users of the reserved group pavilions will also be charged the general admission fee to the OSP site.

5. The carrying capacity of a group rental pavilion is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6. There are three types of rental pavilions, as follows.
 - a. Type I Pavilion. These pavilions, usually located in the day-use area, accommodate a standard of 40 people.
 - b. Type II Pavilion. These pavilions, usually located in the day-use area, accommodate 60 people.
 - c. Type III Pavilion. These pavilions are usually separated from the day-use area, affording more group privacy than the other pavilion types. They may accommodate 100 people.

7. Fees for group rental pavilions:
 - a. type I pavilion—\$50 per day;
 - b. type II pavilion—\$70 per day;
 - c. type II pavilion—\$120 per day.

G. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows:

1. type I (e.g., North Toledo Bend, Palmetto Island, Arboretum, Poverty Point Reservoir, Lake Claiborne, Chemin-à-Haut)—\$100;
2. type II (e.g., Chicot, South Toledo Bend, Fontainebleau, Lake D'Arbonne)—\$160;
3. type III (e.g., Lake Fausse Pointe, Bogue Chitto)—\$220.

H. Fees for pavilion and meeting room rentals are subject to applicable state and local taxes. Fees for general admission and miscellaneous day use services, permits, and privileges include applicable state and local sales taxes

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1052 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013), LR 43:295 (February 2017).

§502. Fees and Exemptions; Exemptions/Discounts

A. ...

B. Active Duty Military. Active duty military personnel and one immediate family member shall receive a 50 percent discount for general admission to a state park or state historic site by presenting a current, valid military photo ID.

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

D. National Parks and Federal Recreation Lands Passes. Any citizen of the United States who possesses a national parks and federal recreation lands senior pass (formerly the golden age passport) or access pass (formerly the golden access passport) issued by any agency of the United States, pursuant to 16 U.S.C. section 460 L-65, upon presentation of the pass and proper identification to any OSP authorities, shall be exempt from the general admission fee to any OSP site and/or receive a 50 percent discount on camp site rental fees provided that the state park system of the citizen's domicile as reflected on his presented identification also recognizes such passes for discounted access and services.

E. Non-Profit Community Home-Based Organization. Any child age 18 or under who is retained in the legal

custody of the state through a bona fide contractual service agreement with a public, non-profit community home-based organization or provider shall be exempt from paying the general admission fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or provider.

1. - 2. ...

F. Annual Day-Use Permits

1. Permits are available at a cost of \$80 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal admission fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in which the permit holder is a passenger or driver are also admitted without charge

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The annual day-use permits are valid for a period of one year from the date of purchase. Permits may be obtained at any site.

c. Price does not include applicable state and local taxes.

2. The annual day-use permits are valid for exemption of the general admission day-use charge only.

G. Pursuant to R.S. 56:1692, any person accompanying a citizen of the state of Louisiana who is 62 years of age or older, as the driver of a single, private, noncommercial vehicle, or alternatively, the exempted person's spouse and children accompanying him or her where entry to the area is by any means other than private, noncommercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana.

H. Discounts and Fee Waivers. The assistant secretary or his designee may grant written approval for a waiver or discount of entrance fees and facility use fees in accordance with guidelines adopted by the Louisiana State Parks and Recreation Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1987 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013), LR 43:296 (February 2017).

§503. Fees and Exemptions; Special Promotions

A. From time to time, as deemed appropriate by the assistant secretary, special programs, promotions, occupancy regulations, discounts or waivers on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

B. As approved by the assistant secretary and subject to the limits set forth herein, overnight use rates may be subject to a surcharge based on demand. In no event shall campsite rental fees exceed \$40 per night, cabin rental fees exceed \$350 per night, lodge rental fees exceed \$400 per night, nor group camp rental fees exceed \$1000 per night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1988 (August 2005), LR 43:296 (February 2017).

§504. Fees and Exemptions; Overnight Accommodations

A. Camping Fees and Exemptions

1. Campsites

a. A premium campsite is an improved campsite with sewer or is pull-through or is in a prime location.

b. An improved campsite has water and electrical hookup available.

c. An unimproved campsite does not have utility hook-ups. These are typically located in campgrounds where utilities or bathhouses are nearby.

d. Backcountry campsites typically only have a tent pad and fire ring and are located in undeveloped areas of an OSP site, where no facilities are provided. These sites are accessed by backpacking or by non-motorized watercraft.

i. A permit is required for all overnight backcountry camping or backpacking use and may be obtained at the park entrance station.

ii. A copy of the backcountry camping or backpacking regulations can be obtained at the park entrance station.

e. For information regarding campsite reservation fees, see §505, Reservation Policy.

f. Each campsite is restricted to use by one camping unit as defined in §331.B.5.

g. The winter season is October 1-March 31 and the summer season is April 1-September 30.

	Summer Weekend	Summer Weekday	Winter Weekend	Winter Weekday
Premium Campsite	\$33	\$30	\$33	\$25
Improved Campsite	\$28	\$25	\$28	\$20
Unimproved Campsite	\$18	\$18	\$18	\$18
Backcountry Campsite	\$9	\$9	\$9	\$9

2. Primitive Group Camping Areas. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are available for camping at \$35 to \$60 per night based on capacity. Capacity will be set by the site manager.

3. Rally camping areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group-use only.

a. Fees

i. A fee of \$60 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

ii. The day-use fee for a rally campground is \$60 per day for the group, in addition to the standard general admission fees per person.

b. Carrying Capacity. A maximum carrying capacity for rally areas is established by individual site managers, and information concerning these capacities is available through the individual site offices.

4. Long-Term Stays. No fee exemption or discount provided for by rule may be applied to a long-term stay.

B. Cabins, Lodges, Group Camps—Fees and Exemptions

1. Cabins

a. Except as otherwise set forth in this Chapter, cabins may be rented in accordance with the following rates.

Classification	Standard Weekday Rate	Standard Weekend Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$150	\$175	6-8	8
Standard	\$85	\$95	4-6	6-8

b. The rental fee for all cabins at Hodges Gardens S.P. and modular cabins at Sam Houston Jones S.P. will be the standard weekday rate year-round.

2. Park Lodges. Lodges are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups. Except as otherwise set forth in this Chapter, lodges may be rented at the following rates.

Classification	Standard Weekday Rate	Standard Weekend Rate	Bedding Accommodations	Maximum Capacity
Standard	\$155	\$210	varies	varies
Deluxe	\$175	\$225	14	16

3. Group Camps. Group camps are available at certain parks for organized group use, for day- or overnight-use. The capacity, type of facility, and rates are as follows.

Classification	Overnight Rate	Maximum Capacity
Class III	\$600	100+
Class II	\$300	99
Class I	\$240	49

4. Special Research Dormitory Facilities at Poverty Point SHS

a. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory can be used on a first-come, first-served basis by other individuals who meet the requirements as set forth in this policy statement.

b. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

i. Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

c. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

d. Facility Use Agreement

i. All parties granted permission to use the dormitory must execute a "facility use agreement."

ii. The user must execute the agreement and return it to the site manager before occupying the dormitory.

e. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a \$125 per night fee for overnight-use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

f. Research Dormitory Occupancy Requirements

i. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

ii. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

iii. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

iv. Research dormitory checkout time is 2 p.m.

g. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

h. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

5. Prices for the facilities listed in this Section do not include applicable state and local taxes.

6. Prices are subject to discounts, waivers, or surcharges due to special events, demand, occupancy, use that exceeds capacity, or use that is deemed to fall outside of the type of use for which the facility is designed, managed, and staffed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:1988 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013), LR 43:297 (February 2017).

§505. Reservation Policy

A. - A.1. ...

2. The call center will operate 7:30 a.m. to 6 p.m. (Central Standard Time), Monday-Friday. Inbound telephone reservation services will be closed on the following holidays: New Year's Day, Good Friday, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. Reservations are accepted only from persons 21 years of age or older. All persons under 21 years of age must be accompanied by adults when using reserved facilities. Exceptions may be approved by the assistant secretary or his designee.

4. Deposit in full deposit amount must be received within 10 days of the date the reservation is made; otherwise, the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. A \$35 NSF fee will be charged for checks written on accounts with insufficient funds. If the reservation is made within 14 days or fewer of the usage date, payment shall be by credit card only.

5. Cancellation of a reservation initiated by the site user is subject to a surcharge. The cancellation fee is a minimum of \$10 per facility. If the reservation is canceled within 14 days of the first day of intended use, the cancellation fee is the cost of one day's stay or \$10 per facility, whichever is more. Transfer of reservation dates will be treated as a cancellation as well as a new reservation; therefore subject to the cancellation surcharge. There is no charge to transfer a reservation from a facility to the same type of facility located within the same site. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

6. - 7. ...

8. For cabins, lodges, group camps, rally shelters and campsites a two-night minimum reservation is required for weekends and a three-night minimum reservation is required for weekdays. Weekday nights are considered Sunday through Thursday and weekends are Friday through Saturday. The weekend minimum applies to any reservation containing a weekend night consecutive with other nights. The weekday minimum applies to any reservation not containing a weekend night. If facilities are not reserved in advance, they may be rented on weekends or weekdays for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee. Minimum night reservation terms may be adjusted site-by-site or periodically by the assistant secretary or his designee in order to encourage visitation or to correlate with special events.

9. Up to five campsites in a park may be designated for long-term stays during the winter season, October 1 through March 31, with assistant secretary approval. A long-term stay shall not exceed 60 consecutive nights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640 (December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010), LR 39:1267 (May 2013), LR 43:298 (February 2017).

§507. Special Uses and Restrictions

A. Special Use. Any function requiring special or restricted use of any facility or area within an OSP site must be approved by the assistant secretary and the fee for such will be computed on a negotiated rate unless otherwise established. Special use for an organized group event (e.g. weddings, tournaments, fundraiser, runs/walks, etc.) will typically require a facility use agreement (FUA). The determination for the requirement of a FUA will be made by the assistant secretary. Written request for special use of a facility must be received at the Office of State Parks, P.O. Box 44426, Baton Rouge, LA 70804-4426 at least 30 days prior to the scheduled event. No telephone requests are accepted.

B. - B.3. ...

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state historic sites. Such uses fail to achieve

the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of the visitor. However, at Rebel State Historic Site, musical events sponsored by promoters will be permitted with the approval of the assistant secretary or his designee. In addition, PowWows will be allowed, where appropriate, with the approval of the assistant secretary or his designee.

B.5 - C.2. ...

D. Use of OSP sites for commercial film-making, videography, or commercial still photography including but not limited to the production of motion picture, television programs, video or print advertising commercials, or commercial video tapings, any of which involves the exclusive use and occupancy of OSP property and/or facilities must be arranged and negotiated with the Office of State Parks' administrative office, public information officer for location agreement.

1. Such use shall only be permitted in accordance with a signed location agreement. Each location agreement is unique depending on the site, the proposed use, and other relevant factors and is negotiated accordingly. Contact the Office of State Parks' administrative office, public information officer for location agreement.

2. Exempt from this rule and policy are photographers and videographers who enter OSP property at the request of the DCRT, in response to a press release, or otherwise; to cover an event, conduct interviews, capture footage of the OSP site or program, or else to gather information for a news or feature story or DCRT project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:779 (November 1988), LR 19:313 (March 1993), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010), LR 43:298 (February 2017).

Chapter 9. Division of Outdoor Recreation Administration

§921. LandWCF Application Preparation, Review and Selection Process

A. Applications for LandWCF funds must be submitted to the DOR through an online application available on the Louisiana State Parks website. Applications must be submitted by April 1 (annually). Receipt of an application initiates an extensive and highly competitive process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating. Project applications will be ranked by score from the open project selection process (OPSP) and forwarded to the National Park Service for federal approval. Assistance is available from the DOR staff for completion of the online application at any time throughout the year.

1. Initial Evaluation. DOR staff initially review all application submittals on the first business day following April 1 annually. Identification of all required documents is completed. Applications with substantial missing required documentation are not eligible for further consideration. Sponsors of projects found to have existing compliance issues are also ineligible to apply until actions are completed to meet National Park Service standards. Sponsors of

existing active projects are also not eligible to apply until formal federal closeout procedures by the National Park Service are finalized upon completion of the scope of work for the active project. All project sponsors of applications deemed ineligible are notified in writing in regards to the eligibility to participate. Proposed project sites are visited for initial inspection and evaluation by DOR staff.

2. Review and Preparation of Application. Eligible applicants with complete documentation are evaluated through the OPSP and ranked in priority order. The OPSP is developed in accordance with the most recent publication of the Statewide Comprehensive Outdoor Recreation Plan and approved by the National Park Service (NPS). This determination of suitability results in a priority order of projects for consideration. Projects are presented to the State Parks and Recreation Commission (SPARC) for review. Upon determination of eligible federal LandWCF monies, all eligible projects are forwarded to the NPS regional office within the limits of funding.

3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1232 (June 2010), amended LR 39:1268 (May 2013), LR 43:299 (February 2017).

§923. Recreational Trail Program Summarized³

A. - B. ...

C. Program Funding. The RTP funds come from the Federal Highway Trust Fund, and represent a portion of the motor fuel excise tax collected from non-highway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. The RTP funds are distributed to the states by legislative formula: half of the funds are distributed equally among all states, and half are distributed in proportion to the estimated amount of non-highway recreational fuel use in each state.

³ Title 23, *United States Code*, §206, Recreational Trails Program

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1233 (June 2010), amended LR 43:299 (February 2017).

§929. RTP Application Preparation, Review and Selection Process

A. - E. ...

F. Division of Outdoor Recreation staff will monitor the construction phase and complete a site inspection at the completion of the project. Project sites are subject to periodic inspection after completion by Division of Outdoor Recreation staff and federal partners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010), amended 39:1268 (May 2013), LR 43:299 (February 2017).

§931. Louisiana Recreational Trails Advisory Committee

A. The Louisiana Recreational Trails Advisory Committee is composed of selected individuals to represent

a cross-section of trail users and trail providers. The committee meets at a minimum of once per the federal fiscal year.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010), amended LR 43:299 (February 2017).

Chapter 11. Black Bear Golf Course

Editor' Note: This Chapter 11 (§§1101-1131) has been moved from LAC 25:XI.Chapter 5 (§§501-531).

§1101. Definitions

[Formerly LAC 25:XI.501]

A. ...

Director of Golf (Director)—under the direction of the manager of Poverty Point Reservoir State Park, the director is the top supervisor directly in charge of day-to-day management of the course. The *director* is responsible for enforcing all rules set forth in this Part and for enforcing all course policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:249 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1268 (May 2013), LR 43:300 (February 2017).

§1111. Business Solicitation

[Formerly LAC 25:XI.511]

A. No person may sell or offer for sale any merchandise or service at the course without the written consent of the assistant secretary, subject to applicable laws, rules, and policies of the state.

B. No person may distribute, post, place, or erect any advertising device at the course without the written consent of the assistant secretary, subject to applicable laws, rules, and policies of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013), LR 43:300 (February 2017).

Brandon Burris
Deputy Assistant Secretary

1702#008

RULE

**Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development**

Motion Picture Investor Tax Credit Program
(LAC 61:I.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the rules for the Motion Picture Investor Tax Credit Program.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter A. Motion Picture Investor Tax Credit Program

§1605. Definitions

A. - B. ...

Cost Report of Production Expenditures—a report of production expenditures formatted in accordance with LED accounting guidelines, which may be issued with initial certification, posted on LED's website or otherwise communicated by LED to applicant in writing.

Louisiana Publisher—a company primarily engaged in trade, professional or scholarly publishing, which sells or licenses copyrights or the right of use of copyrights in its ordinary course of business, and has a physical location in Louisiana with at least one full-time employee working at such a location on a regular basis. Registering with the Louisiana Secretary of State or appointing a registered agent in Louisiana does not establish a physical location in Louisiana. A procurement company shall not be considered a Louisiana publisher.

Louisiana Resident—a natural person who is a legal resident, who has been domiciled in and maintained a permanent place of abode in Louisiana for no less than 12 consecutive months, and who has filed a Louisiana state income tax return.

Louisiana Resident, Resident, or Resident of Louisiana—repealed.

a. - b. repealed.

Louisiana Screenplay—

a. a screenplay created by a Louisiana resident; or
b. a screenplay purchased, optioned, licensed or otherwise acquired from a Louisiana publisher, in each case, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or a reasonable legal opinion issued to the office.

Procurement Company—any person or entity that purchases, leases or otherwise obtains goods or services from sources outside of the state, for the ultimate use, benefit or enjoyment of a state-certified production company.

Qualified Louisiana Production Company—an LED-approved motion picture production company, meeting the eligibility criteria for §1615, Louisiana Screenplay Credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010) amended by the Department of Economic Development, Office of

Business Development, Office of Entertainment Industry Development, LR 43:300 (February 2017).

§1615. Louisiana Screenplay Credit

A.1. For state-certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, a state-certified production company which demonstrates that it owned or optioned to own a Louisiana screenplay, which has been held by a qualified Louisiana production company for a minimum of 12 months prior to production, may be eligible for an additional 15 percent of base investment tax credit.

2. *Louisiana Screenplay*—

- a. a screenplay created by a Louisiana resident; or
- b. a screenplay purchased, optioned, licensed or otherwise acquired, from a Louisiana publisher:
 - i. in each case, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or a reasonable legal opinion issued to the office.

3. *Qualified Louisiana Production Company (QLPC)*—a motion picture production company, organized under Louisiana law, or otherwise domiciled and authorized to do business in Louisiana, having its principal place of business in Louisiana, which files Louisiana income tax returns and can also demonstrate:

- a. the power and authority to make creative decisions with respect to a motion picture being produced by a state-certified production company, including but not limited to final cut authority; and
- b. either of the following:
 - i. Louisiana ownership—must be able to prove that the company is 100 percent owned by a Louisiana resident or residents, who are natural persons who have been domiciled in and maintained a permanent place of abode in Louisiana for no less than 12 consecutive months prior to beginning of pre-production; or
 - ii. Louisiana employees—must be able to prove that the company has directly employed a minimum of 3 full-time Louisiana residents for a minimum of 12 months prior to beginning of pre-production.

4. LED shall post on its website a listing of approved Louisiana publishers and qualified Louisiana production companies.

B. If LED determines that an expenditure is a related party transaction, after review of CPA's verification report and any other supplemental support documentation, in addition to any other appropriate limitations or exclusions, such related party transactions shall not qualify for the additional 15 percent copyright credit.

C. LED shall not issue a final certification letter certifying any credits pursuant to the provisions of this section, until promulgation of a rule in the *Louisiana Register*, pursuant to the Administrative Procedure Act.

D. LED staff are available to assist interested parties in understanding the eligibility criteria and applying for this additional credit, and would suggest the following sequence of steps.

1. Interested motion picture production companies should apply to LED for approval as a QLPC.

2. Interested publishing house companies should apply to LED for approval as a Louisiana publisher.

3. Following QLPC approval, QLPC's may apply to LED for project approval of state-certified productions as usual, applying either on their own behalf, or their associated project company may apply, but at time of application it must be able to demonstrate the relationship between QLPC and state certified production company applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:301 (February 2017).

§1621. Louisiana Filmmaker Credit

A. For state-certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, to be eligible for the 30 percent base investment tax credit, motion picture production applicants with base investments in excess of \$50,000 but less than \$300,000, must be able to demonstrate at time of request for final certification that 90 percent of the Louisiana base investment expended on above the line services has been expended for the services of Louisiana residents and that at least 90 percent of the total production jobs have been filled by Louisiana residents. No credits shall be earned by applicant, and LED shall void any initial certification letter issued and deny final certification requests if applicant fails to demonstrate such compliance.

B. Compensation for above the line services performed in Louisiana shall be paid directly to a Louisiana resident, and any payments made to a loan-out company shall not be considered Louisiana resident payroll for the purposes of above-the-line percentage calculations.

C. Production jobs may include, but not be limited to cast and crew positions customarily considered below the line in the film and television industry, such as: production manager, cinematographer, set designer, make-up artist. Extras shall not be considered a production job for purposes of production job percentage calculations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:301 (February 2017).

Anne G. Villa
Undersecretary

1702#027

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:XI.603)

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 111—The Louisiana School, District, and State Accountability System*: §603, Determining a Cohort for a Graduation. These changes update the manner in which student dropouts are assigned regarding students who

transfer to another school when a request for records is received by a sending school.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 6. Graduation Cohort, Index, and Rate

§603. Determining a Cohort for a Graduation [Formerly LAC 28:LXXXIII.603]

A. - H. ...

I. Beginning with the 2016-2017 academic year, for students who exit and have no subsequent enrollment in a school, the school of last record will be considered the school that sent a valid request for student records to the school that applied the exit code.

1. If the last exit from enrollment is for expulsion (exit code 01), then the request for records will not be used to determine last school of record. The last school of enrollment shall be used.

2. This policy shall apply to dropout assignment for any cohort graduation period or DCAI year that includes 2016-2017 and beyond. Years prior to 2016-2017 that are included in a cohort graduation period or DCAI year will continue to use the historical rule, established by the student information system (SIS), of assigning the dropout to the school of last enrollment record in SIS.

J. All students (excluding those defined in Subsection C of this Section), regardless of entry or exit dates, are included in the state-level cohort.

K. Students who exit K-12 education and enroll in adult education shall earn points for their school and LEA only if a GED is awarded by October 1 of the following academic year. Otherwise, the student shall be considered a dropout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:2031 (October 2007), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2840 (December 2010), LR 38:3108 (December 2012), LR 40:1316 (July 2014), LR 43:302 (February 2017).

Shan N. Davis
Executive Director

1702#010

RULE

Board of Elementary and Secondary Education

Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers (LAC 28:XCV.Chapters 1-17)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) has repealed *Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers*. This action is required because the teacher competencies outlined in Bulletin 113 are outdated and obsolete.

**Title 28
EDUCATION**

Part XCV. Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers

Chapter 1. Introduction

§111. Reading and Language Competencies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3065 (December 2005), repealed LR 43:302 (February 2017).

Chapter 2. Foundational Concepts—Strand A

§201. BESE Reading Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1449 (July 2004), repealed LR 43:302 (February 2017).

§203. BESE/LDE Reading Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:302 (February 2017).

§205. Reading and Language Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:302 (February 2017).

§207. Reading and Language Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:302 (February 2017).

§209. Additional Reading and Language Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:302 (February 2017).

§211. Additional Reading and Language Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:302 (February 2017).

Chapter 3. Assessment—Strand B

§301. BESE/LDE Reading Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:302 (February 2017).

§303. BESE/LDE Reading Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:303 (February 2017).

§305. NCATE Reading and Language Competencies—Knowledge
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:303 (February 2017).

§307. NCATE Reading and Language Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:303 (February 2017).

§309. Additional Reading and Language Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:303 (February 2017).

§311. Additional Reading and Language Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1541 (July 2004), repealed LR 43:303 (February 2017).

§313. Additional Reading and Language Competencies—Dispositions
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:303 (February 2017).

§315. Additional Reading and Language Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:303 (February 2017).

Chapter 5. Phonemic Awareness and Letter Knowledge—Strand C

§501. BESE/LDE Reading Competencies—Knowledge
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§503. BESE/LDE Reading Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§505. NCATE Reading and Language Competencies—Knowledge
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§507. NCATE Reading and Language Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§509. Additional Reading and Language Competencies—Knowledge
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§511. Additional Reading and Language Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

Chapter 7. Phonics and Word Recognition—Strand 7

§701. BESE/LDE Reading Competencies—Knowledge
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§703. BESE/LDE Reading Competencies—Skills
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§705. NCATE Reading and Language Competencies—Knowledge
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:303 (February 2017).

§707. NCATE Reading And Language Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:304 (February 2017).

§709. Additional Reading and Language Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

§711. Additional Reading and Language Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

Chapter 9. Fluent, Automatic Reading of Text—Strand E

§901. BESE/LDE Reading Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

§903. BESE/LDE Reading Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

§905. NCATE Reading and Language Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3065 (December 2005), repealed LR 43:304 (February 2017).

§907. NCATE Reading and Language Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A) (10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3065 (December 2005), repealed LR 43:304 (February 2017).

§909. Additional Reading and Language Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

§911. Additional Reading and Language Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

Chapter 11. Vocabulary

§1101. BESE/LDE Reading Competencies—Knowledge (Strand F)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

§1103. BESE/LDE Reading Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:304 (February 2017).

§1105. NCATE Reading and Language Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

§1107. NCATE Reading And Language Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:304 (February 2017).

§1109. Additional Reading and Language Competencies—Knowledge (Strand F)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:304 (February 2017).

§1111. Additional Reading and Language Competencies—Skills (Strand F)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:304 (February 2017).

Chapter 13. Text Comprehension—Strand G

§1301. BESE/LDE Reading Competencies—Knowledge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:304 (February 2017).

**§1303. BESE/LDE Reading Competencies—Skills
(Strand G)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1305. NCATE Reading and Language
Competencies—Knowledge**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1307. NCATE Reading And Language
Competencies—Skills**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1309. Additional Reading and Language
Competencies—Knowledge**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1311. Additional Reading and Language
Competencies—Skills**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

Chapter 15. Spelling and Writing

**§1501. BESE/LDE Reading Competencies—Knowledge
(Strand H)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:305 (February 2017).

**§1503. BESE/LDE Reading Competencies—Skills
(Strand H)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:305 (February 2017).

**§1505. NCATE Reading and Language
Competencies—Knowledge**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1507. NCATE Reading and Language
Competencies—Skills**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1509. Additional Reading and Language
Competencies—Knowledge (Strand H)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:305 (February 2017).

**§1511. Additional Reading and Language
Competencies—Skills (Strand H)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:305 (February 2017).

Chapter 17. Professional Development—Strand I

§1701. BESE/LDE Reading Competencies—Knowledge

Repealed.

§1703. BESE/LDE Reading Competencies—Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1705. NCATE Reading and Language
Competencies—Knowledge**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1707. NCATE Reading and Language
Competencies—Skills**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:305 (February 2017).

**§1709. Additional Reading and Language
Competencies—Knowledge (Strand I)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:305 (February 2017).

§1711. Additional Reading and Language Competencies—Skills (Strand I)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:306 (February 2017).

§1713. Additional Reading and Language Competencies—Dispositions (Strand I)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1456 (July 2004), repealed LR 43:306 (February 2017).

§1715. Additional Reading and Language Competencies—Skills (Strand I)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:306 (February 2017).

§1717. Appendix—Development of Reading and Language Rubrics

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1456 (July 2004), repealed LR 43:306 (February 2017).

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Executive Director

1702#011

RULE

Board of Elementary and Secondary Education

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools (LAC 28:CXXXIX.107, 301, 307, 309, 401-411, 417-423, 521, 523, 707, 2301, 2303, 2701, 2703, 2707, 2709, and 2713)

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 126—Charter Schools*: §107, Types of Charter Schools; §301, Charter School Authorizers; §307, Local School Board Duties; §309, Charter Authorizer Reporting Requirements; §401, Local Charter Authorizers; §403, Certification of Local Charter Authorizers; §405, Open Meetings Laws; §407, Independent Financial Audit; §409, Local Charter Authorizers; Initial Certification Period and Initial Review; §411, Renewal of Certification for Local Charter Authorizers; §417, Oversight of Charter Schools Authorized by Local Charter Authorizers; §419, Authorizer Fee; §421, Annual Report; §423, Closure of Local Charter Authorizers; §521, Authorization of Schools by Local Charter Authorizers; §523, Charter School Replication; §707, Contracts between Local Charter Authorizers and Charter

Operators; §2301, State Funding; §2303, Federal Funding; §2701, Students Eligible to Attend; §2703, Enrollment Capacity; §2707, Application Period; §2709, Enrollment of Students, Lottery, and Waitlist; and §2713, At-Risk Students. Act 497 of the 2016 Regular Legislative Session eliminated local charter authorizers from the definition of “chartering authority” and removed the authority of local charter authorizers to enter into charter agreements, thus providing that only local school boards and BESE have this authority. The passage of Act 497 necessitates the removal of all references to local charter authorizers and type 1B charter schools in *Bulletin 126—Charter Schools*. Further, the revisions address issues resulting from federally-declared disasters in Louisiana or surrounding states.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§107. Types of Charter Schools

A. A type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.

B. A type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the state Board of Elementary and Secondary Education.

C. A type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a charter between a nonprofit corporation and the local school board.

D. A type 3B charter school is a former type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

E. A type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the state Board of Elementary and Secondary Education.

F. A type 5 charter school is a preexisting public school transferred to the recovery school district as a school determined to be failing pursuant to R.S. 17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the state Board of Elementary and Secondary Education.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 39:3249 (December 2013), LR 43:306 (February 2017).

Chapter 3. Charter School Authorizers

§301. Charter School Authorizers

A. The state Board of Elementary and Secondary Education authorizes the operation of type 2, type 4, and type 5 charter schools.

B. Local school boards authorize the operation of type 1, type 3, and type 3B charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 39:473 (March 2013), LR 39:3249 (December 2013), LR 43:306 (February 2017).

§307. Local School Board Duties

A. Local school boards have the following duties relating to charter schools:

1. to report any charter entered into; and to report the number of schools chartered, the status of those schools, and any recommendations relating to the charter school program to BESE no later than July 1 of each year;

2. provide each charter school with the criteria and procedures that will be used when considering whether to renew a school's charter;

3. to notify the chartering group in writing of any decisions made relative to the renewal or nonrenewal of a school's charter not later than January 31 of the year in which the charter would expire. A notification that a charter will not be renewed shall include written explanation of the reasons for such non-renewal;

4. to make available to chartering groups any vacant school facilities or any facility slated to be vacant for lease or purchase at up to fair market value. In the case of a type 2 charter school created as a result of a conversion, the facility and all property within the existing school shall also be made available to the chartering group. In return for the use of the facility and its contents, the chartering group shall pay a proportionate share of the local school board's bonded indebtedness to be calculated in the same manner as set for in R.S. 17:1990(C)(2)(a)(i). If such facilities were constructed at no cost to the local school board, then such facilities, including all equipment, books, instructional materials, and furniture within such facilities, shall be provided to the charter school at no cost;

5. if requested by a charter school, provide transportation services to a charter school student pursuant to R.S. 17:158.

a. The charter school shall reimburse the local school board for the actual cost of providing such transportation unless an amount less than the actual cost is agreed upon by both parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:3064 (November 2013), LR 43:307 (February 2017).

§309. Charter Authorizer Reporting Requirements

A. All charter authorizers including BESE and local school boards shall notify state legislators regarding initial charter school proposals and applications according to the following requirements.

1. At the time a chartering group submits its initial proposal or application to operate a charter school, the chartering authority shall notify each state senator and state representative in whose district the charter school is to be located that such proposal or application has been submitted.

2. Such notification shall be limited to the date the proposal or application was submitted, the charter authorizer to which the proposal or application was submitted, the type of charter school the chartering group seeks to operate, and the location of the proposed school.

3. The charter authorizer shall also notify each state senator and state representative in whose district the charter school is to be located whether the proposal or application to operate a charter school was approved or denied.

4. The notifications shall be sent by both postal mail and electronic mail to each legislator's district office.

5. This Section shall not apply to renewals of the charter of an existing charter school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 40:2517 (December 2014), amended LR 43:307 (February 2017).

Chapter 4. Local Charter Authorizers

§401. Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:473 (March 2013), repealed LR 43:307 (February 2017).

§403. Certification of Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3982, and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:473 (March 2013), repealed LR 43:307 (February 2017).

§405. Open Meetings Laws

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 43:307 (February 2017).

§407. Independent Financial Audit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 43:307 (February 2017).

§409. Local Charter Authorizers; Initial Certification Period and Initial Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981.1 and R.S. 17:3981.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 43:307 (February 2017).

§411. Renewal of Certification for Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 17:3981, R.S. 17:3981.1, R.S. 17:3982, and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 43:307 (February 2017).

§417. Oversight of Charter Schools Authorized by Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973, R.S. 17:3974, R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3891.2, R.S. 17:3982, and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 43:307 (February 2017).

§419. Authorizer Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 43:308 (February 2017).

§421. Annual Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1 and R.S. 17:3998.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:475 (March 2013), repealed LR 43:308 (February 2017).

§423. Closure of Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:475 (March 2013), repealed LR 43:308 (February 2017).

Chapter 5. Charter School Application and Approval Process

§521. Authorization of Schools by Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973, R.S. 17:3974, R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3981.2, R.S. 17:3982, and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:475 (March 2013), repealed LR 43:308 (February 2017).

§523. Charter School Replication

A. - A.4. ...

5. the type of charter schools the charter operator may open shall be determined as follows;

Charter School Meeting Eligibility Requirements	Permitted New Types of Charter Schools
Type 1	<ul style="list-style-type: none"> Type 1; May be a Type 3 subject to the permission of the school board
Type 2	<ul style="list-style-type: none"> New Type 2; May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school
Type 3	<ul style="list-style-type: none"> Type 1; May be a Type 3 subject to the permission of the school board
Type 3B	<ul style="list-style-type: none"> Type 3B, subject to the charter operator's ability to provide a facility or enter into an agreement with the local school board for use of a school board facility
Type 4	<ul style="list-style-type: none"> Type 4

Charter School Meeting Eligibility Requirements	Permitted New Types of Charter Schools
Type 5	<ul style="list-style-type: none"> Type 2; May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school

6. the chartering group shall notify its chartering authority of its intent to open one or two additional charter schools pursuant to this Section at least 120 calendar days prior to the day on which each additional school shall enroll students;

7. at least 90 calendar days prior to the day on which each additional school shall enroll students, the chartering authority shall enter into a charter agreement with the chartering group for each additional school and shall notify BESE of its action;

8. the charter operator must complete all processes and required by law and BESE policy to open a school, including, but not limited to the procurement of all required permits, inspections and approvals necessary to safeguard student safety and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:1432 (June 2013), amended LR 39:3250 (December 2013), amended LR 43:308 (February 2017).

Chapter 7. Charter School Performance Contract §707. Contracts between Local Charter Authorizers and Charter Operators

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973, R.S. 17:3974, R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3982, and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:476 (March 2013), repealed LR 43:308 (February 2017).

Chapter 23. Charter School Funding

§2301. State Funding

A. Unless otherwise provided by law, the per pupil amount provided to a type 1, 2, 3, 3B, or 4 charter school shall be computed at least annually and shall be equal to the per pupil amount provided through the Minimum Foundation Program formula, determined by the allocation weights in the formula based upon student characteristics or needs, received by the school district in which the student resides, as determined by the weighted differentiated funding formula based upon individual student characteristics or needs that is provided through the Minimum Foundation Program, except as provided in Subsection E of this Section.

1. The state-funded per pupil allocation shall be based upon the weighted student membership count received by the district pursuant to the most recent legislatively approved Minimum Foundation Program formula, and include all

levels and allocation weights based upon student characteristics or needs as provided in the formula except any supplementary allocations for specific purposes. Supplementary allocations for specific purposes shall be provided to charter schools based solely on the funds generated by the charter school within each specific allocation.

B. Initial allocation of the per pupil amount each year shall be based on estimates provided by the Louisiana Department of Education using the most recent local revenue data and projected pupil counts available. Allocations may be adjusted during the year to reflect actual pupil counts.

C. For the purposes of funding, each type 1, type 3, and type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement.

D. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

E. Beginning on July 1, 2016, for allocations in a school district with one or more Type 3B charter schools in a parish that contains a municipality with a population of 300,000 or more persons according to the latest federal decennial census, refer to *Bulletin 129—The Recovery School District*, §1111.

F. Type 2 charter schools approved prior to July 1, 2008 shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year. Type 2 charter schools authorized by the state Board of Elementary and Secondary Education after July 1, 2008, shall receive a per pupil amount each year as provided in the Minimum Foundation Program approved formula.

1. Any allocation adjustment made pursuant to this Paragraph shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year. The provisions of this Paragraph relative to an allocation adjustment shall not be applicable to any type 2 charter school that has had an increase or decrease in student enrollment of 5 percent or less in any school year for which the February membership count occurs.

G. A charter authority may annually charge each charter school it authorizes a fee in an amount equal to two percent of the per pupil allocation that is received by a charter school for administrative overhead costs incurred by the chartering authority for considering the charter application and any amendment thereto, providing monitoring and oversight of the school, collecting and analyzing data of the school, and for reporting on school performance. Such fee amount shall be withheld from the per pupil amount in monthly

increments and shall not be applicable to any federal money or grants received by the school. Administrative overhead costs shall not include any cost incurred by the charter authority to provide purchased services to the charter school.

1. At least 30 days prior to the beginning of each fiscal year, each charter school shall be provided by its chartering authority with a projected budget detailing anticipated administrative overhead costs and planned uses for fees charged for such costs.

2. By no later than 90 days following the end of each fiscal year, each charter school shall be provided by its chartering authority or the Recovery School District, if applicable, an itemized accounting of the actual cost of each purchased service provided to the charter school.

3. The LDE may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 3B charter school for administrative costs incurred by the LDE for providing financial oversight and monitoring of a type 3B charter school acting as its own LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3995, and R.S. 17:3981.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:549 (April 2016), LR 43:308 (February 2017).

§2303. Federal Funding

A. Any type 2 or type 5 charter school shall be considered the local education agency for funding purposes and statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. A type 3B charter school shall have the option to remain its own local education agency or have the local school board serve as the charter school's local education agency, pursuant to §519 of this bulletin.

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds for special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 43:309 (February 2017).

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. - E. ...

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

1. student's name;
2. name of parent or legal custodian;

3. current address of parent or legal custodian;
4. statement indicating that the student is displaced from another school due to a federally-declared disaster; and
5. name of the school in which the student was previously enrolled prior to the federally-declared disaster.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016), LR 43:309 (February 2017).

§2703. Enrollment Capacity

A. - B. ...

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 43:310 (February 2017).

§2707. Application Period

A. - D. ...

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 43:310 (February 2017).

§2709. Enrollment of Students, Lottery, and Waitlist

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

B. - D.2.a. ...

b. If a charter school's enrollment capacity is increased for the purpose of enrolling students displaced due to a federally-declared disaster and the charter school's

designated application period has passed, the charter school may enroll students displaced due to a federally-declared disaster on a first come, first served basis until the enrollment capacity is reached.

E. - J.2.d. ...

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 43:310 (February 2017).

§2713. At-Risk Students

A. Charter schools shall maintain required student enrollment percentages as provided in this Section, based on the demographic information collected in the February 1 pupil membership count for students who were enrolled at the school the previous October 1 according to the October 1 pupil membership count.

B. The following definitions shall apply in this Section.

Students from Local Public School Districts—public school students who reside within the geographic boundaries of the local city or parish school board's district where a particular charter school is located.

Students with Exceptionalities—students identified as having one or more exceptionalities, as defined in R.S. 17:1942, not including gifted and talented.

C. Unless otherwise explicitly stated in the charter school's contract, or otherwise provided by charter law, each type 2 charter school created as the result of a conversion, type 3 charter school, and type 4 charter school shall maintain the following student enrollment percentages:

1. the charter school's percentage of free- or reduced-price lunch-eligible students shall be greater than or equal to the percentage of free- or reduced-price lunch-eligible students enrolled at the school in the school year prior to the establishment of the charter school; and

2. the charter school's percentage of students with exceptionalities shall be greater than or equal to the percentage of students with exceptionalities enrolled at the

school in the school year prior to the establishment of the charter school.

D. Except as otherwise provided by charter law, each type 1 or type 2 charter school created as a new school shall maintain the following student enrollment percentages:

1. the charter school's percentage of free- or reduced-price lunch-eligible students shall be greater than or equal to 85 percent of the percentage of free- or reduced-price lunch-eligible students from local public school districts. The remaining number of students enrolled in the charter school which would be required to have the same percentage of free- or reduced-price lunch-eligible students from local public school districts shall be comprised of students who are otherwise at-risk as defined in §103 of this bulletin; and

2. the charter school's percentage of students with exceptionalities shall be greater than or equal to 85 percent of the percentage of students with exceptionalities from the local public school districts. The remaining number of students enrolled in the charter school which would be required to have the same percentage of students with exceptionalities from the local public school districts shall be comprised of students who are otherwise at-risk as defined in §103 of this bulletin.

E. For the purpose of Subsection D of this Section, the LDE shall determine the percentages of free or reduced-price lunch-eligible students and students with exceptionalities from local public school districts as follows.

1. For charter schools in operation prior to July 1, 2016, the student enrollment percentages shall be based on the February 1, 2015 pupil membership count and shall remain fixed until the charter school's contract is renewed, unless otherwise provided for in existing charter contracts.

2. For charter schools beginning an initial or renewal charter contract term on or after July 1, 2016, the student enrollment percentages shall be based on the pupil membership counts from the school year immediately preceding the beginning of the charter contract term and shall remain fixed during the charter contract term, unless the charter contract specifies that the percentages shall be required to reflect the current year's percentages.

F. The LDE shall perform all calculations necessary to implement this Section.

G. Annually, the LDE shall make a report to BESE on the student enrollment percentages detailed in this Section for all public schools and local education agencies.

H. Each charter authorizer shall hold its authorized charter schools accountable for meeting the required student enrollment percentages in this Section in accordance with state law by taking the following actions for each charter school that fails to meet required enrollment percentages:

1. conducting an inquiry to determine all actions taken by the charter school to attempt to meet the requirements and the reasons for such failure; and

2. providing a written notice to the charter school that provides specific annual enrollment percentage targets the charter school must meet to demonstrate progress toward meeting the required enrollment percentages, and details how the charter authorizer will hold the charter school accountable, including any potential consequences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008),

amended LR 37:875 (March 2011). LR 40:1325 (July 2014), LR 42:550 (April 2016), LR 43:310 (February 2017).

Shan N. Davis
Executive Director

1702#012

RULE

Office of the Governor Board of Home Inspectors

Education, Training and Testing
(LAC 46:XL.Chapters 1, 3, 5 and 7)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 17:1475(4), the Board of Home Inspectors has amended this Part to better facilitate education, training and testing and to comply with the provisions of R.S. 17:1478(B) and to further clarify the duties of special investigative entities.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XL. Home Inspectors

Chapter 1. General Rules

§105. Officers; Election; Secretary-Treasurer; Chief Operating Officer; Board Staff; Duties

A. - C. ...

D. The board shall be represented by the attorney general's office. In lieu of available representation from the attorney general, the board may retain qualified counsel of its choice as according to law and at fees no higher than the schedule provided by the attorney general for special assistant attorneys general. An attorney is qualified if a reasonable portion of their practice and experience is obtained from or devoted to administrative agency practice and procedure or civil litigation. In the event the board needs counsel on a specific area of expertise, an attorney may be retained for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1686 (August 2004), 36:2857 (December 2010), LR 43:311 (February 2017).

§119. Education/Training and Testing; Initial Licensure

A. - B. ...

C. The 130 hours of home inspection instruction and training shall consist of the following:

1. ...

2. a minimum of 30 hours of in-field platform training from a certified infield trainer;

3. a minimum of 10 hours of instruction and training from a certified infield trainer, which shall consist of attending 10 live home inspections at a residential structure where a fee is paid and a report is provided to a client;

4. in addition to completion of the 130 hours of home inspection instruction and in-field training, the applicant shall also attend the report writing seminar conducted on behalf of the board by its approved representative and pass

the board-approved examination of the standards of practice and *Code of Ethics*.

D.1. - D.2.d. ...

3. Before the trainee can be certified as having completed the required 90 hours of course work, the trainee must have:

a. - b. ...

c. mailed a completed LHI application form.

E. ...

F. Prior to admission to an infield training program, the trainee shall complete the required 90 hours of course work described in §119.C.1.

G. Infield training shall consist of platform training and live training.

1. ...

2. Live training shall consist of attending 10 live home inspections with a certified infield trainer at a resale residential structure where a fee is paid and a report is provided to the client. The applicant shall be given one credit hour for each live inspection attended. No more than two applicants may be trained at a time during a live home inspection. Within five days from the inspection, the trainee shall prepare a mock home inspection report in a format that conforms to the requirements of the standards of practice for each home inspected during live training. The report shall be delivered to the trainer within five days of the inspections. The applicant shall retain these reports for three years from the date of completion of training.

H. Upon registering trainees for a 90-hour course, all certified pre-licensing education providers shall:

1. notify the board of the date of the commencement and completion of each 90-hour course of instruction of each trainee on the board-approved registration form;

2. keep records of attendance of each trainee enrolled in the pre-licensing course to confirm satisfactory completion of the required 90 hours of instruction;

3. provide the trainee with an education provider evaluation form approved by the board prior to final testing and completion of the required 90 hours of instruction;

4. provide a final examination and multiple periodic examinations to the trainee covering course contents; and

5. provide a copy of certificates of completion to the board on the board approved completion form of only those trainees who have successfully completed the full 90 hours of instruction.

I. Certified infield trainers shall:

1. - 4. ...

5. instruct the trainee on how to perform home inspections in compliance with the standards of practice and *Code of Ethics*;

J. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2741 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 35:1519 (August 2009), LR 36:2858 (December 2010), LR 38:2529 (October 2012), LR 40:1003 (May 2014), LR 41:920 (May 2015), LR 43:311 (February 2017).

§120. Education Providers; Qualifications

A.1....

2. A *pre-licensing education provider* is defined as any individual or entity certified by the board to provide pre-licensing education as described in §119.C.1

A.3. - B.1.c. ...

2. Any individual or entity desiring to conduct business in this state as a pre-licensing education provider, continuing education provider or infield trainer shall file an application for certification with the board.

3. - 5.c....

6. Repealed.

C. - C.2. ...

D.1. All pre-licensing education providers shall designate a director, whose duty it shall be to ensure that the operations of the education facility and all training locations adhere to the requirements of the Louisiana home inspector license law and the rules and regulations of the board. The director shall be held responsible to the board for any violations thereof.

2. Directors shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the board to all staff, instructors, and employees of the pre-licensing education provider.

E.1. - E.4. ...

F.1. Pre-licensing education providers shall maintain accurate and properly indexed records on all students for at least three years after course completion and shall produce those records for inspection upon request of the board. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

2. Pre-licensing education providers shall maintain the following records on each student:

a. - e. ...

3. Pre-licensing education providers shall provide any student who requests it with a duplicate copy of his/her course completion records.

G.1. ...

2. A copy of the contract, signed by the director of the pre-licensing education provider, shall be provided to the student immediately after both parties sign the contract.

G.3. - H. ...

I.1. Advertising by certified education providers shall be clear, concise and accurate. All advertisements shall be in the name of the education provider as certified by the board. Advertising by education providers shall not be false or misleading.

2. - 3. ...

J.1. In order to qualify as a pre-licensing education provider, an applicant shall:

a. - b.

c. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise, on a form prepared by the board and available for download from the board's website;

d. - f. ...

2. In order to qualify as a certified home inspector instructor of a pre-licensing education provider, a person must:

a. have been actively engaged in the legal performance of home inspections for a minimum of three years prior to certification;

b. not have been found guilty of substantial violations of the home inspector licensing law within three years prior to applying;

c. provide evidence that he has performed at least 500 legal home inspections; or

d. be licensed in the field of the subject matter of the particular course instructed; and

e. be approved by the board.

3. In order to qualify as an infield trainer, an applicant shall:

a. have been an actively engaged, Louisiana licensed home inspector for the three years prior to certification;

b. - d. ...

e. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise on a form prepared by the board and available for download from the board's website;

f. provide evidence that he has performed at least 500 legal home inspections;

g. not have been found guilty of substantial violations of the home inspector licensing law within three years prior to applying; and

h. be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 30:1687 (August 2004), amended by the Office of the Governor, Board of Home Inspectors, LR 31:2011 (August 2005), LR 35:1520 (August 2009), LR 36:2859 (December 2010), LR 38:2530 (October 2012), LR 41:920 (May 2015), LR 43:312 (February 2017).

§121. Continuing Education; Instructors

A.1. As a condition of license renewal, a licensee, (not renewing a license for the first time) must certify completion of at least 20 hours of continuing education during the previous licensing period, in courses approved by the board. No more than 10 hours of continuing education credit may be carried over into the following year. Board-approved continuing education instructors may be given continuing education credit for course preparation and other activities as set forth in Paragraph F.3, below.

2. As a condition of license renewal, a first year inspector, renewing a license for the first time, must certify completion of at least 30 hours of continuing education during the previous licensing period.

B. Continuing Education Courses

1. - 4. ...

5. The licensee may receive up to eight hours of continuing education credit per licensing period for courses taught by a board certified continuing education provider, dealing with the construction industry, but outside the scope of the standards of practice.

6. The licensee may receive up to four hours of continuing education credit per licensing period for attending a quarterly or special board meeting or for serving on a committee appointed by the board and up to three hours of credit per appointment and six hours per licensing period for acting as a special investigating entity as described in §707.

7. The licensee may receive up to eight hours of continuing education credit per licensing period for each class taught by a non-approved instructor which subject matter deals with the construction industry, provided that the licensee has requested and received the approval of the Education Committee chairperson prior to the LHI's participation in the course.

8. The licensee may receive up to a maximum of 10 hours of continuing education credit per licensing period for any combination of the following types of classes as set forth in Paragraphs 5-7 of this Subsection:

a. online courses;

b. streaming video courses;

c. courses given by an unapproved instructor and courses which are outside the scope of the standards of practice but deals with the construction industry.

9. Continuing education credit cannot be received by attending classes designated for pre-license education instruction as set forth in §119.C.1.

10. Continuing education courses must be taught by continuing education providers who meet the criteria set forth in §121.F.1. Qualified guest lecturers may teach courses on behalf of continuing education provider instructors. Last minute guest lecturers may be substituted upon approval by the chief operating officer. The continuing education provider shall be responsible for confirming the qualifications of the guest lecturer.

11. Any remaining balance of continuing education hours must be obtained by participation in live presentation CE classes taught by a board-certified education provider.

12. All licensees must attend a board-approved report writing and standards of practice seminar at least once every three years.

C.1. - D.2. ...

E. It is the duty of every licensee to provide proof of compliance with continuing education requirements on a timely basis. In order to receive credit from the board for completion of continuing education courses under this Section, proof of compliance in the form of a certificate of completion issued by a certified continuing education provider must be submitted.

F.1. In order to qualify as a continuing education provider instructor, an applicant shall:

a. ...

b. be a licensed home inspector from a state requiring licensure for at least three years; or, if the applicant resides in a state that does not require licensing, provide verifiable proof that the applicant has been actively engaged in the performance of home inspections for at least three years;

c. provide evidence that he has completed at least 500 legal home inspections;

d. not have been found guilty of substantially violating these rules or the home inspector licensing law within the three years prior to his application; and

e. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise on a form prepared by the board and available for download from the board's website;

f. be current on all other fees (if applicable); and

g. be approved by the board.

2. ...

3. A licensee, who is also a board-approved continuing education instructor, may qualify to receive up to 10 hours of continuing education requirements per licensing period by presenting satisfactory evidence to the board of participation, other than as a student, in educational processes and programs in home inspection practices or techniques, including but not limited to any combination of teaching, program development, and preparation of textbooks, monographs, articles, or other instructional material subject to approval of the board.

4. A certified continuing education provider shall be authorized to offer any continuing education courses that teach items specifically covered within the standards of practice, without applying for prior approval of the chief operating officer and/or board. The continuing education provider shall be responsible for verifying that the course work falls within the scope of the standards of practice or building construction field.

5. ...

6. The continuing education provider shall forward copies of all sign-in sheets to the board within two weeks of the completion of the continuing education class. The continuing education provider shall retain copies of these sign-in sheets for three years from the date of completion of the continuing education class.

7. The names and contact information for all approved continuing education providers will be posted on the board's official website. At the request of a provider, the board will also post announcements of continuing education classes on its website upon written notice by the provider 30 days prior to the class.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 37:2405 (August 2011), LR 38:2531 (October 2012), LR 40:1003 (May 2014), LR 43:313 (February 2017).

§125. Home Inspectors Record Keeping; Inspection; Production Retention

A. ...

B. Records shall be made available, upon reasonable request, to the board's representatives during normal business hours. Such request shall be made in writing on board stationery. The failure of a licensee to maintain adequate records or the failure to furnish copies of such records within 72 hours of receipt of a written request by the board shall constitute a violation of this rule.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board

of Home Inspectors, LR 36:2860 (December 2010), LR 41:920 (May 2015), LR 43:314 (February 2017).

§139. Prohibited Acts: Penalties and Costs

A. - A.11. ...

12. providing fraudulent documentation or information in regards to continuing education.

B. The board may fine any applicant or any member of the public for good cause shown, for activities which include, but are not limited to, the following:

1. - 3. ...

C. - E. ...

F. The board may suspend or revoke any certification or license, or censure, fine, or impose probationary or other restrictions on any education provider (whether pre-licensing education provider, continuing education provider or infield trainer) who submits fraudulent documentation to the board regarding the education earned by a licensee or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1486-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1688 (August 2004), LR 41:921 (May 2015), LR 43:314 (February 2017).

Chapter 3. Standards of Practice

§307. General Limitations

A. Home inspections done in accordance with this Chapter are visual and are not technically exhaustive.

B. This Chapter applies only to residential resale buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 41:922 (May 2015), LR 43:314 (February 2017).

§309. General Exclusions

A. - B.15. ...

C. Home inspectors shall not:

1. - 5. ...

6. advertise or solicit to perform or perform repair services on any system or component of the home inspected or any other type of service on the home inspected from the time of the inspection until the date of the act of sale of the home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1478.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 36:2862 (December 2010), LR 38:2532 (October 2012), LR 41:922 (May 2015), LR 43:314 (February 2017).

§321. Air Conditioning and Heating System

A. - D. ...

E. The home inspector is not required to:

1. - 3. ...

4. inspect:

a. - f. ...

g. components of solid fuel heating devices, such as fire screens and doors, seals and gaskets, automatic fuel feed devices, mantles and fireplace surrounds, combustion make-up air devices, heat distribution assists, whether gravity-controlled or fan-assisted; or

h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 36:2863 (December 2010), repromulgated LR 38:2533 (October 2012), amended LR 41:923 (May 2015), LR 43:314 (February 2017).

Chapter 5. Code of Ethics

§501. Code of Ethics

A. ...

B. Ethical Obligations

1. - 6. ...

7. The LHI shall not solicit to repair, replace or upgrade for compensation, any system or component of the home inspected or any other type of service on the home upon which he has performed a home inspection, from the time of the inspection to the date of the act of sale of the home inspected.

8. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 36:2863 (December 2010), LR 37:2406 (August 2011), LR 41:924 (May 2015), repromulgated LR 41:2339 (November 2015), amended LR 43:315 (February 2017).

Chapter 7. Disciplinary Actions

§703. Complaints

A. - F. ...

G. Based upon a review of the records of the board kept in the ordinary course of business, the chief operating officer of the board may initiate a complaint against a licensee based upon the delinquency or failure of the licensee to make timely payment of fees, fines or assessments or upon the licensee's failure to comply with reporting requirements, continuing education requirements, insurance requirements, or other requirements of the licensee. In all such cases, the chief operating officer shall send the licensee notification by certified mail specifically outlining the delinquency or violation, including any amounts due. The licensee shall either, pay any fees and fines due, comply with any requirements stated or respond, in writing, within 14 days of receipt of the notice disputing the claim or amounts due. A licensee's failure to respond within the delays shall be prima facie proof of his noncompliance subjecting the licensee to immediate suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1483, and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 40:1004 (May 2014), LR 43:315 (February 2017).

§707. Investigations; Special Investigating Entity; Board Review

A. Upon receipt of a complaint filed pursuant to §703.A and conforming with this Chapter, the board shall assign a docket number to the complaint and refer it to an SIE. Any

individual, licensee or member of a committee appointed to serve as an SIE shall:

1. - 4. ...

B. A copy of the complaint shall be served upon the home inspector or member of the public (respondent) in accordance with §707.D. The respondent shall submit a written response to the special investigating entity within 14 days after receipt of the copy of the complaint.

C. The SIE shall make an investigation of the charges and responses, with the sole purpose of determining whether or not the allegations listed in the complaint indicate a violation of these rules or the home inspector licensing law. The SIE shall not visit or inspect the property at issue during the investigative process, but may contact the parties involved, and any third parties, to request any further information or documentation needed to conduct the investigation. The SIE may review photographs, reports, correspondence and other documentation submitted by any party or third party in conducting the investigation. The SIE shall prepare and file a report of its findings with the board within 30 days of the completion of the investigation;

D. A copy of the report of the SIE shall be mailed by the COO to the complainant and to the respondent by certified mail. The report shall contain:

D.1. - E. ...

F. If the report states that any or all allegations of the complaint lack sufficient evidence to indicate a violation of these rules or the licensing law, the chief operating officer shall advise the complainant and respondent in writing that the evidence was insufficient to support a particular allegation or all allegations in the complaint. The chief operating officer shall also advise the complainant and respondent that, in order for any of the lacking allegations of the complaint to be reviewed by the board, the complainant must make a written request for review by the board within 15 days of mailing of the report, must support the complaint with additional documentation or evidence and must set forth specific reasons why the SIE's determination on each allegation is incorrect.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1694 (August 2004), LR 40:1004 (May 2014), LR 41:924 (May 2015), LR 43:315 (February 2017).

§713. Hearing Procedure; Decision; Notice; Effective Date; Rehearing

A. - D. ...

E. A board decision or order may be reconsidered by the board at the next board meeting on its own motion, or on motion by a party of record, for good cause shown pursuant to a written request filed at the board's office within 10 days following the date of the mailing of the final board order or decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board

of Home Inspectors, LR 30:1695 (August 2004), LR 38:2533 (October 2012), LR 41:924 (May 2015), LR 43:315 (February 2017).

Albert J. Nicaud
Board Attorney

1702#005

RULE

Office of the Governor Commission on Law Enforcement

Peace Officer Training (LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401, et. seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et. seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council has amended rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4721. Firearms Qualification

A. Pre-Academy Firearms Training

1. Any person employed or commissioned as a peace officer, or reserve or part-time peace officer must successfully complete a pre-academy firearms training program as prescribed by the council within thirty (30) days of employment if that person will be performing the duties of a peace officer before attending a basic or refresher law enforcement training course.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:435 (August 1987), amended LR 25:664 (April 1999), LR 35:1236 (July 2009), LR 43:316 (February 2017).

§4750. In Service Training and Certification

A. - A.1.b. ...

B. Minimum Training Hours

1. Each calendar year, all certified level 1 and 2 officers must successfully complete, at a minimum, the required number of in-service training hours to maintain certification, unless waived by the council. This requirement includes "grandfathered" peace officers. These requirements begin the first calendar year after receiving certification or refresher training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 37:1606 (June 2011), amended LR 43:316 (February 2017).

§4761. Advanced Training

A. Sexual Assault Awareness Training

1. On and after January 1, 2016, each full-time peace officer shall complete a sexual assault awareness training

program as provided by the council pursuant to R.S. 40:2405.8. The training program shall be implemented through a series of learning modules developed for this purpose.

B. Lead Homicide Investigator Training

1. Initial Training Course

a. The course content of the initial training course shall be approved by the council.

b. The content shall be determined based on a recommendation from a "curriculum committee" appointed by the council.

c. The "curriculum committee" shall consist of active homicide investigators, who shall advise the council on course content. The committee will consist of board members of the Louisiana Homicide Investigations Association.

2. Waiver

a. The council may issue a waiver for the initial training course on a case-by-case basis declaring that an officer has previously received training and experience that is substantially equal to or exceeds that provided by the course.

b. A waiver form submitted to the council shall be reviewed by the committee and recommendations made to the council.

3. Certificate

a. Officers who complete the initial basic course or receive a waiver from the council shall be issued a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 42:274 (February 2016), LR 43:316 (February 2017).

Jim Craft
Executive Director

1702#034

RULE

Office of the Governor Division of Administration Racing Commission

License Information (LAC 46:XLI.1903)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended LAC 46:XLI.1903. This amendment creates an additional licensing requirement of licensed training tracks requiring them to provide proof that the Racing Commission be a notified party on the policy so that it receives notice of all renewals and any lapses in coverage.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 19. Training Tracks

§1903. License Information

A. - B.5. ...

6. name of liability insurer, policy number, name of insureds, certificate of insurance in an amount not less than \$1,000,000, and proof that the Louisiana State Racing Commission is listed as a notified party on the insurance policy and certificate in such a manner that the Louisiana State Racing Commission receives notice of all renewals and any lapses in coverage;

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:289 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1018 (April 2012), LR 43:316 (February 2017).

Charles A. Gardiner III
Executive Director

1702#021

RULE

Department of Health Board of Medical Examiners

Physician Licensure and Practice; Telemedicine
(LAC 46:XLV.408 and Chapter 75)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, the Board has amended its Rules governing the use of telemedicine as to patients who are located in this state, LAC 46:XLV.408 and .7501 et seq. The amendments are set forth herein.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§408. Telemedicine Permit Qualifications, Procedure, Issuance, Expiration and Renewal

A. Requirement for Permit/Qualifications. A physician who does not possess a Louisiana medical license shall not engage in the practice of medicine in this state via telemedicine, as defined in Chapter 75 of these rules, unless he or she holds a telemedicine permit issued by the board. A telemedicine permit is a limited license that provides lawful authority to a physician who does not hold a current, unrestricted Louisiana medical license to practice telemedicine with respect to patients located in this state. To be eligible for a telemedicine permit an applicant shall:

A.1. - C. ...

D. Application. Application for a telemedicine permit shall be made in a format approved by the board and shall include:

1. - 2. ...

3. the primary location(s) from which telemedicine will be utilized by the applicant;

D.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015), LR 43:317 (February 2017).

Subpart 3. Practice

Chapter 75. Telemedicine

Subchapter A. General Provisions

§7503. Definitions

A. As used in this Chapter and in §408 of these rules, unless the content clearly states otherwise, the following words and terms shall have the meanings specified.

* * *

Medical Practice Act or the Act—R.S. 37:1261-92, as may from time to time be amended.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or a telemedicine permit duly issued by the board.

* * *

Telemedicine—the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither an electronic mail message between a physician and a patient, or a true consultation constitutes *telemedicine* for the purposes of this Part. A physician practicing by telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the physician determines that he or she is able to meet the same standard of care as if the healthcare services were provided in person.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:317 (February 2017).

§7505. Patient Relationship; Standard of Care; Location of Participants

A. ...

B. Standard of Care. The practice of medicine by telemedicine, including the issuance of any prescription via electronic means shall be held to the same prevailing and usually accepted standards of medical practice as those in traditional (face-to-face) settings. An online, electronic or written mail message does not satisfy the standards of appropriate care.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015) LR 43:317 (February 2017).

§7507. Prerequisite Conditions; Disclosures

A. The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize

telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license; or
2. holds a telemedicine permit as provided in §408 of these rules.

B. A physician utilizing telemedicine with respect to patients located in this state shall have:

1. ...
2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:
 - a. - c. ...
 - d. to refer the patient to another physician in this state or arrange for follow-up care within this state as may be indicated for that purpose.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:317 (February 2017).

§7509. Patient Records

A. Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit. The record shall clearly reflect and state that the patient encounter occurred by telemedicine;
2. - 3. ...
4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time; and
5. made available to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2146 (October 2015), LR 43:318 (February 2017).

§7513. Prohibitions

A. - B. ...

C. No physician shall utilize telemedicine:

1. - 2. ...
3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;
 - a. the physician has had at least one in-person visit with the patient within the past year; provided, however, the requirement for an in-person visit shall not apply to a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration;

C.3.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534

(August 2009), amended LR 41:2146 (October 2015), LR 43:318 (February 2017).

Keith C. Ferdinand, M.D.
Interim Executive Director

1702#038

RULE

Department of Health Board of Medical Examiners

Physician Practice; Marijuana for Therapeutic Use by
Patients Suffering From a Debilitating Medical Condition
(LAC 46:XLV.Chapter 77)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, the Board has amended its Rules governing physicians who utilize therapeutic marijuana in the treatment of their patients who are suffering from a debilitating medical condition, LAC 46:XLV Chapter 77. The amendments a herein set forth.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Medical Condition

Subchapter A. General Provisions

§7701. Preamble, Warning, and Suggested Consultation

A. Preamble—State Law. Pursuant to Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of the Louisiana Legislature, the Louisiana State Board of Medical Examiners was directed to:

1. promulgate rules and regulations authorizing physicians licensed to practice in this state to recommend marijuana for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition; and

A.2. - C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2631 (December 2015), amended by the Department of Health Hospitals, Board of Medical Examiners, LR 43:318 (February 2017).

§7703. Scope of Chapter

A. This Chapter is being adopted in order to comply with the obligations imposed upon the board by Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of the Louisiana Legislature, and govern a physician's

recommendation for the therapeutic use of marijuana for a patient suffering from a debilitating medical condition with whom the physician has established a bona-fide physician-patient relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017).

§7705. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Conventional Treatment or Conventional Medicine—therapeutic modalities and medications offered or employed by a physician in the treatment of a debilitating medical condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Debilitating Medical Condition (also referred to in this Chapter as a *Qualifying Medical Condition*)—cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn’s disease, muscular dystrophy, or multiple sclerosis, and/or such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

* * *

Qualifying Medical Condition—a debilitating medical condition, as defined in this Section.

Recommend or Recommendation (also referred to in this Chapter as a *Written Request* or *Recommendation*)—a physician’s written direction transmitted in a form and manner specified in §7721 of this Chapter, to a licensed therapeutic marijuana pharmacy. The issuance of a recommendation must be in good faith and in the usual course of the physician’s professional practice.

* * *

Step Therapy or Fail First Protocols—as used in this Chapter means that if the USFDA approves the use of therapeutic marijuana for a debilitating medication condition, in a form or derivative that is different than provided for in this Chapter, the USFDA form or derivative shall be used first. If the physician determines that such USFDA approved form or derivative has been ineffective in the treatment of the patient’s debilitating medical condition, the physician may then recommend a form of therapeutic marijuana provided in this Chapter for use by the patient as medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017).

Subchapter B. Prohibitions and Exceptions

§7709. Exceptions

A. This Chapter is subject to the following exceptions.

1. The rules of this Chapter shall not apply to a physician’s prescription of cannabinoid derived pharmaceuticals that are approved by the USFDA for administration to patients.

2. If the USFDA approves the use of therapeutic marijuana:

a. in the same form provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that medical condition shall no longer be covered by this Chapter;

b. in a form or derivative different than provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that disease state shall remain covered by this Chapter. However, the patient shall first be treated through utilization of step therapy or fail first protocols.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017).

Subchapter C. Registration

§7711. Registration, Physician Eligibility

A. To be eligible for registration under this Chapter a physician shall, as of the date of the application:

1.-2. ...

3. be domiciled in and practice at a physical practice location in this state; and

4.-D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:319 (February 2017).

Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records

§7717. Use of Marijuana for Therapeutic Purposes, Limitations

A. ...

1. **Medical Diagnosis.** A medical diagnosis of a debilitating medical condition shall be clinically established and clearly documented in the patient’s medical record, based on an in-person physical examination. The diagnosis shall be supported by an assessment of the patient which, at a minimum, shall include a review of the patient’s present illness, medical and surgical history, social history, alcohol and substance use history (including addiction, mental illness and psychotic disorders), prescription history, and an assessment of current coexisting illnesses, diseases, or conditions.

2. ...

3. **Independent Medical Judgment.** A physician’s decision to utilize marijuana in the treatment of a patient must be based on the physician’s independent medical

judgment. The indication, appropriateness, and safety of the recommendation shall be evaluated in accordance with current standards of practice and in compliance with the laws of this state and the rules of this Chapter.

4. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient’s medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:

a. that conventional treatment for the patient’s debilitating medical condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. whether therapeutic marijuana could interfere with any ongoing conventional treatment; and

c. the intended role of therapeutic marijuana within the overall plan.

5. Informed Consent. A physician shall explain the potential risks and benefits of both the therapeutic use of marijuana and any alternative conventional treatment to the patient. Among other items, informed consent should caution against driving, operating machinery or performing any task that requires the patient to be alert or react when under the influence of the drug and the need for secure storage to reduce the risk of exposure to children or diversion by others. Unless approved by the USFDA for treatment of the patient’s debilitating medical condition, a physician shall also advise patients that therapeutic marijuana is experimental, unconventional, and has not been approved by the USFDA for the treatment of the patient’s debilitating medical condition, and that possession may be viewed as illegal under federal law and subject to federal (and workplace) enforcement action. Discussion of the risks and benefits should be clearly noted in the patient’s record. If the patient is a minor a custodial parent or legal guardian shall

be fully informed of the risks and benefits and consent to such use.

A.6. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017).

§7721. Form of Written Request or Recommendation

A. Required Contents. A written request or recommendation for therapeutic marijuana shall include:

1. - 3. ...

4. the form, amount, dosage and instructions for use of therapeutic marijuana in an amount which is not greater than that necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatment; and

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:320 (February 2017).

Subchapter E. Sanctions, Severability

§7725. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), repealed by the Department of Health, Board of Medical Examiners LR 43:320 (February 2017).

§7729. Appendix—Form for Recommendation for Therapeutic Marijuana

**—THIS IS NOT A PRESCRIPTION—
PHYSICIAN RECOMMENDATION FORM**

* * *

Section C. Patient’s Debilitating Medical Condition(s) (Required)

<p>This patient has been diagnosed with the following debilitating medical condition: (A minimum of one condition must be checked)</p>
<p><input type="checkbox"/> Acquired Immune Deficiency Syndrome</p> <p><input type="checkbox"/> Cachexia or Wasting Syndrome</p> <p><input type="checkbox"/> Cancer</p> <p><input type="checkbox"/> Crohn’s Disease</p> <p><input type="checkbox"/> Epilepsy</p> <p><input type="checkbox"/> Multiple Sclerosis</p> <p><input type="checkbox"/> Muscular Dystrophy</p> <p><input type="checkbox"/> Positive Status for Human Immunodeficiency Virus</p> <p><input type="checkbox"/> Spasticity</p> <p><input type="checkbox"/> Seizure Disorders</p>

* * *

Section E. Certification, Signature and Date (Required)

By signing below, I attest that the information entered on this recommendation is true and accurate. I further attest that the above-named individual is my patient, who suffers from a debilitating medical condition and that this recommendation is submitted by and in conformity with Louisiana Law, R.S. 40:1046, and administrative rules promulgated by the Louisiana State Board of Medical Examiners, LAC 46:XLV.Chapter 77.

Signature of Physician: X _____

Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:320 (February 2017).

Keith C. Ferdinand, M.D.
Interim Executive Director

1702#039

RULE

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

Behavioral Health Services
Healthy Louisiana and Coordinated System of Care Waiver
(LAC 50:XXXIII.Chapters 1, 3 and 7)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.Chapters 1, 3 and 7 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 XXXIII. Behavioral Health Services

Subpart 1. Healthy Louisiana and Coordinated System of Care Waiver

Chapter 1. Managed Care Organizations and the Coordinated System of Care Contractor

§101. General Provisions

A. The Medicaid Program hereby adopts provisions to establish a comprehensive system of delivery for specialized behavioral health and physical health services. These services shall be administered through the Healthy Louisiana and Coordinated System of Care (CSoC) Waiver under the authority of the Department of Health (LDH), in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. ...

C. Managed care organizations shall operate as such, and the CSoC contractor shall operate as a prepaid inpatient health plan (PIHP). The MCOs were procured through a competitive request for proposal (RFP) process. The CSoC contractor was procured through an emergency process

consistent with 45 CFR part 92. The MCOs and CSoC contractor shall assist with the state's system reform goals to support individuals with behavioral health and physical health needs in families' homes, communities, schools and jobs.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2353 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:321 (February 2017).

§103. Recipient Participation

A. - A.5. ...

6. full dual eligibles (for behavioral health services only and non-emergency medical transportation (NEMT));

7. children residing in an intermediate care facility for persons with intellectual disabilities (for behavioral health services only and NEMT);

8. all enrollees of waiver programs administered by the LDH Office for Citizens with Developmental Disabilities (OCDD) or the LDH Office of Aging and Adult Services (OAAS) (mandatory for behavioral health services only and NEMT);

9. ...

10. adults residing in a nursing facility (for behavioral health services only and NEMT);

11. supplemental security income/transfer of resources/long-term care related adults and children (for behavioral health services only and NEMT); and

12. transfer of resources/long-term care adults and children (for behavioral health services only and NEMT).

B. ...

C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the MCOs and the CSoC contractor:

1. for adults and children:

a. refugee cash assistance;

b. refugee medical assistance;

c. spend-down medically needy;

d. specified low-income beneficiaries (SLMB)-only;

e. aliens emergency services;

f. qualified individuals (QI) 1;

g. long-term care (LTC) co-insurance;

h. qualified disabled and working individuals (QDWI); and

i. qualified medicare beneficiaries (QMB)-only; and

- 2. adult-only populations excluded from the 1915(b) waiver:
 - a. residents of an ICF/ID;
 - b. Program of All Inclusive Care for the Elderly (PACE); and
 - c. Take Charge Plus.
- 3. - 10. 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, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:1286 (July 2015), LR 41:2354 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:321 (February 2017).

§107. Enrollee Rights and Responsibilities

- A. - A.1.b. ...
 - c. receive assistance with care coordination from the primary care providers (PCP's) office or the enrollee's behavioral health provider;
 - d. Repealed.
- A.2. - B.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, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2354 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:322 (February 2017).

Chapter 3. Managed Care Organizations and the Coordinated System of Care Contractor Participation

§301. Participation Requirements and Responsibilities

- A. - B.4. ...
 - 5. contract only with providers of services who are licensed and/or certified, meet the state of Louisiana credentialing criteria and enrolled with the Bureau of Health Services Financing, or its designated contractor, after this requirement is implemented;
 - 6. - 9. ...
 - a. are developed by the enrollee's primary care provider (PCP) or behavioral health provider with the enrollee's participation and in consultation with any specialists' providing care to the enrollee, with the exception of treatment plans or plans of care developed for recipients in the Home and Community Based Services (HCBS) Waiver. The wraparound agency shall develop plans of care according to wraparound best practice standards for recipients who receive behavioral health services through the HCBS Waiver;
 - b. ...
 - c. are in accordance with any applicable state and federal quality assurance and utilization review standards; and
 - 9.d. - 10.c. ...

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

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

38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2355 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:322 (February 2017).

§303. Benefits and Services

- A. ...
- B. The MCO and CSoC contractor:
 - 1. shall ensure that medically necessary services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished and shall not be more restrictive than services provided under the Medicaid State Plan;

B.2. - 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, LR 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2355 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:322 (February 2017).

Chapter 7. Grievance and Appeals Process

§701. General Provisions

- A. ...
- B. An enrollee, or a provider on behalf of an enrollee, has 60 calendar days from the date on the notice of action in which to file an appeal.

C. An enrollee may file a grievance at any time after an occurrence or incident which is the basis for the grievance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2356 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:322 (February 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

1702#052

RULE

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.2903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is

promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 29. Public-Private Partnerships

§2903. Reimbursement Methodology

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

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

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

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2259 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:323 (February 2017).

Rebekah E. Gee MD, MPH
Secretary

1702#053

RULE

**Department of Health
Bureau of Health Services Financing**

Healthcare Services Provider Fees
Nursing Facility Services Providers
(LAC 48:I.4001)

Editor's Note: This Rule is being repromulgated to correct citation error's. The original Rule can be viewed in the January 20, 2017 edition of the *Louisiana Register* on page 73.

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - B.1. ...

2. The provider fee imposed for nursing facility services shall not exceed 6 percent of the average revenues received by providers of that class of services and shall not exceed \$12.08 per occupied bed per day. The fee amount

shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

C. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:323 (February 2017).

Rebekah E. Gee MD, MPH
Secretary

1702#060

RULE

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Home and Community-Based Behavioral Health
Services Waiver (LAC 50:XXXIII.Chapters 81-83)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.Chapters 81-83 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 XXXIII. Behavioral Health Services

Subpart 9. Home and Community-Based Services

Waiver

Chapter 81. General Provisions

§8101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a home and community-based services (HCBS) waiver. This HCBS waiver shall be administered under the authority of the Department of Health, in collaboration with the coordinated system of care (CSoc) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of

Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:323 (February 2017).

§8103. Recipient Qualifications

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. are from the age of 5 years old through the age of 20 years old effective March 1, 2017:

a. recipients enrolled in the program prior to this date, who are between the ages of 0 through 4 or 20 through 21, may continue to be served through this waiver as long as they continue to meet the level of care criteria; and

b. prospectively recipients must be at least age 5 through age 20 to receive waiver services;

2. - 3. ...

4. require hospital or nursing facility level of care, as determined by the department's designated assessment tools and criteria;

5. meet financial eligibility criteria; and

6. reside in a home and community-based setting as defined in 42 CFR 441.301(c)(4) and in accordance with the department's policy and procedures.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:324 (February 2017).

Chapter 83. Services

§8301. General Provisions

A. - E. ...

F. Services may be provided at a site-based facility, in the community or in the individual's place of residence as outlined in the plan of care. All service locations must meet the home and community-based service setting criteria in 42 CFR 441.301(c)(4) and in accordance with the department's policy and procedures.

G. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:324 (February 2017).

§8305. Covered Services

A. - C.3. ...

4. services rendered in an institution for mental disease or any other institutional setting as defined in 42 CFR 441.301(c)(4).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2362 (November 2015), amended by the

Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:324 (February 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

1702#054

RULE

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

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Transportation Costs
(LAC 50:XXI.2905)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.2905 under 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 XXI. Home and Community-Based Services Waivers

Subpart 3. Adult Day Health Care

Chapter 29. Reimbursement

§2905. Cost Categories Included in the Cost Report

A. - D.10. ...

E. Transportation Costs

1. ...

2. Payroll Taxes, Transportation—the cost of the employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for drivers.

a. - c. Repealed.

3. Employee Benefits, Transportation—the cost of group insurance, pensions, uniform allowances and other employee benefits related to drivers.

4. Workers' Compensation, Transportation—the cost of workers' compensation insurance for drivers.

5. Non-Emergency Medical Transportation—the cost of purchased non-emergency medical transportation services including, but not limited to:

a. payments to employees for use of their personal vehicle(s);

b. ambulance companies; and

c. other transportation companies for transporting patients of the center.

6. Interest Expenses, Vehicles—interest paid or accrued on loans used to purchase vehicles.

7. Property Insurance, Vehicles—the cost of vehicle insurance.

8. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

9. Lease, Automotive—the cost of leasing vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

10. Total Transportation Costs.

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 Aging and Adult Services, LR 34:2166 (October 2008), repromulgated LR 34:2571 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2626 (September 2011), amended LR 41:381 (February 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:324 (February 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

1702#055

RULE

**Department of Health
Bureau of Health Services Financing**

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Public Hospitals Supplemental Payments
(LAC 50:V.963)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.963 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§963. Public Hospitals

A. - B.1. ...

a. be designated as a major teaching hospital by the department as of July 1, 2015 and have at least 300 licensed acute hospital beds; or

B.1.b. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2772 (November 2012), amended LR 38:3181 (December 2012), repromulgated LR 39:95 (January 2013), amended LR

39:1471 (June 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:325 (February 2017).

Rebekah E. Gee MD, MPH
Secretary

1702#056

RULE

**Department of Health
Bureau of Health Services Financing**

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

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.33103 and adopt §33105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long-Term Care Services

**Subpart 3. Intermediate Care Facilities for Persons with
Intellectual Disabilities**

Chapter 331. Vendor Payments

§33103. Payment Limitations

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

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

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

a. ...

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

i.-v. ...

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

3. ...

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

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

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

6. ...

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

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

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

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

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

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

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

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

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

4. - 5. Repealed.

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

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

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

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

2. The continuous stay requirement is:

a. ...

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

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

4. - 5. ...

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

D. Advance Deposits

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

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

2. ...

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

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

G. Refunds to Clients

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

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

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

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

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

i. - ii. ...

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

c. ...

H. ICF/ID Refunds to the Department

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

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

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

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

2. - NOTE. ...

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

a. - c. ...

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:682 (April 1999), LR 31:1082 (May 2005), repromulgated LR 31:2257 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 43:325 (February 2017).

§33105. Evacuation and Temporary Sheltering Costs

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

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

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

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

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

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

a. resident transportation and lodging expenses during travel;

b. nursing staff expenses when accompanying residents, including:

i. transportation;

ii. lodging; and

iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

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

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

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

a. additional nursing staff expenses including:

i. lodging; and

ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

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

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

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

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

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

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

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

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

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

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

C. Payment of Eligible Expenses

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

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

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and

paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

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

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

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

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

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

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

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

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

G. When an ICF/ID resident is evacuated to a temporary shelter site, which is a licensed ICF/ID, for greater than 5 days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

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

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

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

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

2. upon admission of the evacuated residents to the host/receiving ICF/ID; or

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:327 (February 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

1702#057

RULE

Department of Health Bureau of Health Services Financing

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

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.20019 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20019. Evacuation and Temporary Sheltering Costs

[Formerly LAC 50:VII.1319]

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

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

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

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

c. - c.ii. ...

d. any additional allowable costs as defined in the CMS Publication 15-1-21, last modified 9/28/2012, that are

directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

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

C. Payment of Eligible Expenses

1. - 2. ...

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

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

4. ...

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

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

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

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

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

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

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

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff

and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:879 (May 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:328 (February 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

1702#058

RULE

**Department of Health
Bureau of Health Services Financing**

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

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.9047 as authorized by R.S. 40:2009. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

**Chapter 90. Psychiatric Residential Treatment
Facilities (under 21)**

Subchapter D. Human Resources

§9047. Personnel Requirements

A. - A.4. ...

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

C. The facility shall maintain a minimum ratio of one staff person for six residents (1:6) between 10 p.m. and 6 a.m. Staff shall always be awake while on duty. The staff for

purposes of this ratio shall consist of direct care staff (i.e. LPN, MHS, MHP, LMHP, etc.).

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:329 (February 2017).

Rebekah E. Gee MD, MPH
Secretary

1702#059

RULE

Department of Health Office of Public Health

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

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

The Rule amends Subpart 15 [Supplemental Food Services for Women, Infants, and Children (WIC)] of Part V (Preventive Health Services) of Title 48 (*Public Health—General*) of the *Louisiana Administrative Code* (LAC). This Rule ensures that the state remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA), adds definitions, and corrects obsolete and typographical references. The following Sections are amended: Sections 4101 and 4103 of Chapter 41 – General Provisions; Sections 4301, 4303, 4305, 4307 and 4309 of Chapter 43, Participant Eligibility and Certification; and Sections 4503, 4505, 4507, 4509, 4511

and 4513 of Chapter 45, Vendor Selection, Participation and Sanctions.

These amendments are also necessary to ensure that the State of Louisiana remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA). Failure to timely adopt such amendments may cause federal monetary sanctions to be imposed against the Louisiana WIC program.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

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

Chapter 41. General Provisions

§4101. Purpose and Scope

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

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

C. The annual Louisiana WIC program state plan, including a comprehensive policy and procedure manual, is

available for review by any interested party at both of the Bureau of Nutrition Services offices in Louisiana, as follows: Room 828, 628 North Forth Street, Baton Rouge, LA 70802 and Suite 1906, 1450 Poydras Street, New Orleans, LA 70112.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:330 (February 2017).

§4103. Definitions

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

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

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

Applicants—pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC benefits, and the breastfed infants of applicant breastfeeding women. Applicants include individuals who are currently participating in the program but are re-applying because their certification period is about to expire.

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

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

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

Breastfeeding Women—women up to 1 year postpartum who are breastfeeding their infants.

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

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

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

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

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

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

Clinic—a facility where applicants are certified.

CMP—civil money penalty.

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

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

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

address, telephone number, web site/e-mail address, store type, and authorization status.

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

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

Days—calendar days.

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

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

Drug—

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

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

Electronic Signature—an electronic sound, symbol, or process, attached to or associated with an application or other record and executed and or adopted by a person with the intent to sign the record.

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

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

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

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

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

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

Food Sales—sales of all SNAP eligible foods intended for home preparation and consumption, including meat, fish, and poultry; bread and cereal products; dairy products; and

fruits and vegetables. Food items such as condiments and spices, coffee, tea, cocoa, and carbonated and noncarbonated drinks may be included in food sales when offered for sale along with foods in the categories identified above. Food sales do not include sales of any items that cannot be purchased with SNAP benefits, such as hot foods or food that will be eaten in the store.

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

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

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

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

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

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

Homeless Individual—a woman, infant or child:

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

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

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

section 412 of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 350a), as amended, and the regulations at 21 CFR parts 106 and 107.

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

Infants—persons under 1 year of age.

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

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

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

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

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

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

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

Nutritional Risk—

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

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

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

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

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

Participation—the sum of the number of:

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

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

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

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

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

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

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

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

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

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

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

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

State—the state of Louisiana.

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

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

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

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

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

USDA—the United States Department of Agriculture.

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

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

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

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

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

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

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

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

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

WIC—WIC program.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health Office of Public Health, LR 14:868 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:331 (February 2017).

Chapter 43. Participant Eligibility

§4301. Integration with Health Services

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

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:334 (February 2017).

§4303. Eligibility Criteria

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

1. reside within the jurisdiction of the state, however, length of residency is not an eligibility requirement;

2. meet the income requirement as described in Subsection B of this Section; and

3. meet nutritional risk criteria as described in Subparagraph d (priority IV) of Paragraph 3 of Subsection C of this Section and in the state plan.

B. Income Criteria and Income Eligibility Determination

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

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

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

1. Determination of Nutritional Risk. At a minimum, height or length and weight of the participant shall be measured, and a hematological test for anemia such as a hemoglobin, hematocrit or free erythrocyte protoporphyrin test shall be performed. However, such tests are not required for infants under 9 months of age.

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

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

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

b. Priority II consists of (except those infants who qualify for Priority I) infant up to 6 months of age born of

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health Office of Public Health, LR 14:868 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:335 (February 2017).

§4305. Timeframes for Processing Applicants

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

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

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

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

4. Each WIC clinic or local agency using a retail purchase system shall issue a food instrument(s) and if applicable a cash-value voucher(s) to the participant at the same time as notification of certification. Such food

instrument(s) and cash-value voucher(s) shall provide benefits for the current month or the remaining portion thereof and shall be redeemable immediately upon receipt by the participant. Local agencies may mail the initial food instrument(s) and, if applicable, cash-value voucher(s) with the notification of certification to those participants who meet the criteria for the receipt of food instruments through the mail, as provided in 7 CFR §246.12(r)(4).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:336 (February 2017).

§4307. Certification Periods

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

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

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

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

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

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

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

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

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

1. Participant violation including, but not limited to, intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits; exchanging CVVs, FIs, or WIC-approved foods for cash, credit, non-food items, or unauthorized food items, including WIC-approved foods in excess of those listed on the participant's FI; threatening to harm or physically harming vendor staff; or making a written, electronic, or verbal offer to sell WIC benefits, including WIC-approved foods, FIs, CVVs, and/or EBT cards, or allowing someone else to do so.

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

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

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

Department of Health, Office of Public Health, LR 43:336 (February 2017).

§4309. Participant Rights and

Responsibilities/Notification/Fair Hearing

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

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

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

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

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

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

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

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

c. the appellant has been denied participation by a previous decision following a hearing and does not allege in the request for appeal that circumstances relevant to program eligibility have changed in such a way as to justify a new hearing.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:336 (February 2017).

Chapter 45. Vendor Selection, Participation and Sanctions

§4501. Reserved.

§4503. Vendor Selection Criteria

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

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

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

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

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

4. maintain the establishment in a clean, orderly and safe condition, with no current sanctions for violations of the Louisiana state *Sanitary Code* (LAC 51), the *International Plumbing Code* as amended by the Louisiana State Uniform Construction Code Council (LAC 17:I.111), or local health code ordinances;

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

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

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

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

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

10. not have been denied WIC authorization or had a prior WIC authorization terminated by the state agency

within the past year for any reason other than the expiration of the vendor agreement, store closing, or store relocation;

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

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

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

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

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

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

17. have access to a computer, with internet access, and shall have an e-mail account that can be used to send messages to and receive messages from the Louisiana WIC program, and shall be able to download and upload electronic documents sent/received via email or posted/requested on the vendor portal or any other online application used by the WIC program;

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

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

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

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

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

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

- c. cash gifts in any amount for any reason;
- d. anything made available in a public area as a complimentary gift which may be consumed or taken without charge;
- e. food, merchandise or services of any value provided to the customer;
- f. food, merchandise sold to customers below cost, or services purchased by customers below fair market value;
- g. any kind of incentive item which incurs a liability for the WIC program; and
- h. any kind of incentive item which violates any federal, state, or local law or regulations;

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:337 (February 2017).

§4505. Agreement

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

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:338 (February 2017).

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

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

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

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

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

D. Vendors shall be notified of adverse reimbursement decisions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:338 (February 2017).

§4509. Vendor Sanctions for Violations

A. Federal Mandatory Vendor Sanctions

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

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

a. one incidence of buying or selling a WIC FI or CVV for cash (trafficking); or

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

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

a. one incidence of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for a WIC FI or CVV;

b. a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds the store's documented inventory of that supplemental food item for a specific period of time;

c. a pattern of vendor overcharges;

d. a pattern of receiving, transacting and/or redeeming FIs or CVVs outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;

e. a pattern of charging for supplemental foods not received by the participant; or

f. a pattern of providing credit or non-food items (not including alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended) in exchange for FIs or CVVs.

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

a. a pattern of providing unauthorized food items in exchange for FIs or CVVs, including charging for supplemental foods provided in excess of those listed on the FI; or

b. a pattern of an above-50-percent vendor providing prohibited incentive items to participants as set forth in federal regulations at 7 CFR 246.12(g)(3)(iv).

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

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

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

implement a corrective action plan for failure to adhere to selection criteria, the state agency shall terminate the vendor agreement. The state agency may disqualify a vendor from participation in WIC for one year for a pattern of any of the following state agency violations:

1. providing cash for returned WIC-approved foods purchased with WIC FIs/CVVs;

2. failing to comply with FI and CVV processing and redemption procedures;

3. stocking or selling WIC-approved foods that are expired or otherwise not fresh, as determined by the state agency;

4. failing to participate in and complete training, as scheduled and required by the state agency;

5. failing to maintain or provide the state agency with required information by the due date identified by the state agency;

6. failing to notify the state agency of instances in which a participant or proxy has failed to comply with WIC program requirements;

7. failing to provide to WIC participants or proxies the same courtesies as offered to other customers;

8. failing to implement a corrective action plan imposed by the state agency; or

9. failing to adhere to any other requirements of the vendor agreement or vendor guide except those for which a longer disqualification period is required as specifically identified within Subsection A-A.2.f of this Section.

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

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

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

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

I. Mandatory Sanction by another WIC State Agency. The state agency shall disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another WIC state agency for a federal mandatory vendor

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

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

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

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

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

N. Effect on Other Stores under Same Ownership. If an individual, partnership, corporation, limited liability company, or other business structure is convicted of a criminal offense involving WIC, SNAP, or any other program funded and administered by the Food and Nutrition Service of the U.S. Department of Agriculture, all grocery stores wholly or partially owned or managed by the convicted individual, partnership, corporation, limited liability company, other business structure, or by a partner of a convicted partnership or an officer, of a convicted corporation or a convicted limited liability company, shall be

terminated from vendor authorization and shall be ineligible for future vendor authorization for the maximum period of time allowed by federal law and regulations. This termination and period of ineligibility shall occur whether or not the grocery store was the location at which the crime occurred, and regardless of whether or not a penalty was imposed upon the convicted party by the court of competent jurisdiction.

O. Legal Remedies Not Precluded by Sanction. The state agency sanctions for vendor violations or program abuse shall not be construed as excluding or replacing any criminal or civil sanctions or other remedies that may be applicable under any federal or state statute or local ordinance. A vendor who commits fraud or abuse of the program is liable to prosecution under applicable federal, state or local laws. Those vendors who have willfully misapplied, stolen or fraudulently obtained program funds shall be subject to a fine of not more than \$25,000 or imprisonment for not more than 5 years or both, if the value of the funds is \$100 or more. If the value of the funds is less than \$100, such vendors shall be subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:338 (February 2017).

§4511. Administrative Review of State Agency Adverse Actions

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

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

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

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

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

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

1. adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review and at least one opportunity to reschedule the administrative review date upon specific request;
2. the opportunity to examine, prior to the review, the evidence upon which the Louisiana WIC program's action is based;
3. the opportunity to be represented by counsel;
4. the opportunity to cross-examine adverse witnesses (when necessary to protect the identity of witnesses, they may be cross-examined behind a protective screen or other device);
5. the opportunity to present its case;
6. an impartial decision-maker, whose determination is based solely on whether the Louisiana WIC program has correctly applied federal and state statutes, regulations, policies, and procedures governing the program, according to the evidence presented at the review; and

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

F. Actions not subject to administrative review include:

1. the validity or appropriateness of the Louisiana vendor limiting criteria, if any;
2. the validity or appropriateness of Louisiana's vendor selection criteria for the minimum variety and quantity of supplemental foods, business integrity, current SNAP disqualification, or civil money penalty for hardship;
3. the validity or appropriateness of the Louisiana selection criteria for a competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;
4. the validity or appropriateness of the state agency's participant access criteria and the state agency's participant access determinations;
5. the state agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list of businesses from which an authorized vendor may purchase infant formula pursuant to selection criteria;
6. the validity or appropriateness of the state agency's prohibition of incentive items and the state agency's denial of an above-50-percent vendor's request to provide an incentive item to customers;
7. the state agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;
8. the state agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;
9. denial of authorization if the state agency's vendor authorization is subject to the procurement procedures applicable to the state agency;
10. the expiration of a vendor's agreement;
11. disputes regarding food instrument or cash-value voucher payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); and
12. disqualification of a vendor as a result of disqualification from SNAP.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:340 (February 2017).

§4513. Availability of Documents

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:342 (February 2017).

Rebekah E. Gee MD, MPH
Secretary

1702#001

RULE

Department of Revenue Policy Services Division

Public Registry of Motion Picture Investor Tax Credit Brokers (LAC 61:III.2701)

Under the authority of R.S. 15:587, R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6007 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:III.2701.

The primary purpose of this regulation is to create a Public Registry of Motion Picture Investor Tax Credit Brokers as required by Act 451 of the 2015 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions Chapter 27. Transferable Income and Franchise Tax Credits

§2701. Public Registry of Motion Picture Investor Tax Credit Brokers

A. This Section is applicable to all persons or persons employed by or representing an entity engaged in the sale or brokerage of motion picture investor tax credits which are granted, issued or authorized by the state pursuant to R.S. 47:6007. Every person who meets any of the below-provided requirements shall be subject to the requirements of R.S. 47:6007(C)(7).

B. Definitions

Actively Participate—any person or person employed by or representing an entity in a sale/brokerage of motion picture tax credits when the person:

a. holds himself/herself out to be engaged in the business of selling or brokering motion picture investor tax credits either on their own behalf or on behalf of the entity; or

b. has a history of frequent, regular, and repeated sales of motion picture investor tax credits either on their own behalf or on behalf of the entity; or

c. did not purchase the credits at issue for his/her/its own personal use. Any person failing to meet any of the above-mentioned criteria shall be presumed a non-seller or non-broker and thus not subject to the requirements of R.S. 47:6007(C)(7).

Broker—any person or person employed by or representing an entity which facilitates the sale of a tax credit issued pursuant to R.S. 47:6007 between a transferor and a transferee in exchange for consideration. However, the term “broker” shall be limited to and include only those persons who actively participate, as defined herein, in the marketing or sale of motion picture investor tax credits and shall not include:

a. the entity which earns the motion picture investor credit pursuant to R.S. 47:6007, its affiliates or taxpayer members who receive tax credits via allocation, as verified by department Form R-6135 and R-6140; or

b. a tax return preparer or an employee of a partner affiliated with the tax return preparer, who facilitates the sale of tax credits for the benefit of his or her client.

Department—Louisiana Department of Revenue

Secretary—the secretary of the Department of Revenue.

Seller—any person or person employed by or representing an entity which transfers title or ownership of a tax credit issued pursuant to R.S. 47:6007 to a transferor in exchange for consideration. The term “seller” shall be limited to those persons who actively participate, as defined herein, in the marketing, sale, or acquisition for resale of motion picture investor tax credits and shall not include the entity which earns the motion picture investor credit pursuant to R.S. 47:6007, its affiliates or taxpayer members who receive tax credits via allocation, as verified by department Form R-6135 and R-6140.

Tax Return Preparer—any person who prepares for compensation, or who employs one or more persons to prepare for compensation, all or a substantial portion of any return of tax or any claim for refund of tax under the *Internal Revenue Code* or the *Louisiana Revised Statutes*.

C. Initial Registration. Beginning January 1, 2016, all sellers or brokers of motion picture investor tax credits shall apply for the registry and be deemed qualified after meeting the requirements of R.S. 47:6007(C)(aa)-(cc) and undergoing a criminal history background examination by the Louisiana Bureau of Criminal Identification and Information as provided for in R.S. 15:587(A)(1)(h) at the expense of the applicant. Applicants for the registry shall follow the procedure for registration as provided below in Subsection D. However, no seller or broker shall be prevented from transferring motion picture investor tax credits until the effective date of this regulation.

1. Any person deemed qualified to sell or broker motion picture investor tax credit shall be included in the public registry of motion picture investor tax credit brokers, which shall be maintained by the department and made available on its website, www.revenue.la.gov/brokerregistry.

2. No person may sell or broker motion picture investor tax credits on or after the effective date of this

regulation without first qualifying for and being included on the public registry of motion picture investor tax credit brokers. All transfers made on or after the effective date of this regulation by a person subject to the requirements of R.S. 47:6007(C)(7) who is not listed on the public registry of motion picture investor tax credits shall be inoperable and of no legal effect and any such transfers shall be deemed ineligible for registration in the Louisiana tax credit registry established pursuant to R.S. 47:1524. Further, failure to so qualify and register with the department prior to selling or brokering tax credits issued pursuant to R.S. 47:6007 shall be punishable by a fine of not more than ten thousand dollars or imprisonment at hard labor for not more than five years, or both. In addition to the foregoing penalties, a person convicted under the provisions of R.S. 47:6007(C)(7) shall be ordered to make full restitution to any person who has suffered a financial loss as a result of this offense. If a person ordered to make restitution is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's ability to pay.

3. Any person who is determined to no longer be in compliance with the requirements of R.S. 47:6007(C)(7) and LAC 61:III.2701.C after initial qualification may be removed from the public registry of motion picture investor tax credit brokers and prohibited from thereafter engaging in the transfer, sale or brokerage of motion picture investor tax credits.

D. Procedure for Registration. Applicants seeking to register with the public registry of motion picture tax credit brokers must follow the below procedures.

1. Submit a completed Form R-6130, Public Registry of Motion Picture Tax Credit Brokers, from the LDR website via either e-mail to TaxCredit.Registry@la.gov or mail to:

Louisiana Department of Revenue
Attn: Tax Credit Registry
P.O. Box 1071
Baton Rouge, LA 70821

2. Upon receipt of a completed Form R-6130, the LDR will send the applicant an LDR completed Louisiana State Police (LSP) authorization form and rap disclosure form to the applicant provided e-mail or address. The bottom portion of both forms should be completed and signed by the applicant. Both forms and payment must be presented to LSP when requesting a background check in person or via mail.

3. Applicants seeking registration have two options for obtaining the required fingerprint-based background check. They are as follows:

a. electronically submit fingerprints at the Louisiana State Police Headquarters facility located at 7919 Independence Boulevard, Baton Rouge, LA 70806. Applicants must present the following for completion of the background check:

i. payment of all applicable fees, including fingerprint fee and processing fee, via credit card, business check, cashier's check, or money order. Contact the LSP for details;

ii. a completed LSP authorization form;

iii. a completed LSP rap disclosure form;

NOTE: A response from the LSP is typically generated in 3-5 business days. Upon receipt of this information, a final determination from the LDR is typically generated in an additional 3-5 business days.

b. obtain fingerprint cards from one of the listed law enforcement locations <http://www.myfbireport.com/locations/lawEnforcement/LA.php> and mail the request for background check with all completed documents and fees to the below address:

Louisiana State Police
Criminal Records
P.O. Box 66614
Baton Rouge, LA 70896

c. the request must contain the following items:

i. two sets of original fingerprints with all required information fields completed on the card;

ii. payment of all applicable fees, including fingerprint fee and processing fee, via credit card, business check, cashier's check, or money order. Contact the LSP for details;

iii. a completed LSP authorization form;

iv. a completed LSP rap disclosure form.

NOTE: A response from the LSP is typically generated in 15-21 business days from the date payment is entered into the LSP receipt system. Upon receipt of this information, a final determination from the LDR is typically generated in an additional 3-5 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587(1)(h), R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 43:342 (February 2017).

Kimberly Lewis Robinson
Secretary

1702#065

RULE

Department of Transportation and Development Professional Engineering and Land Surveying Board

Graduates with Advanced Engineering Degrees and Preliminary Work Disclaimers (LAC 46:LXI.901 and 2701)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.901 and 2701.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering or Land Surveying

§901. Engineer Intern Certification

A. The requirements for certification as an engineer intern under the several alternatives provided in the licensure law are as follows.

1. ...

2. Graduates with Advanced Engineering Degree. The applicant shall be a graduate of a non-EAC/ABET accredited engineering or related science or engineering technology curriculum of four years or more approved by the board as being of satisfactory standing, who has obtained an engineering graduate degree in an engineering discipline or

sub-discipline from a university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline, approved by the board as being of satisfactory standing and in accordance with §1105, who is of good character and reputation, who has passed the examination required by the board in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board.

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1027 (July 2001), LR 30:1711 (August 2004), LR 32:1618 (September 2006), LR 37:2412 (August 2011), LR 38:2563 (October 2012), LR 43:343 (February 2017).

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 3.b.iii.(c). ...

4. Seal Use

a. - a.v.(b). ...

b. Preliminary Work

i. All preliminary documents shall be marked in large bold letters with one or more of the following statements:

- (a). "Preliminary—Not For Construction";
- (b). "Preliminary—For Permit Purposes Only";
- (c). "Preliminary—For Review Only"; or
- (d). "Preliminary—Not For Recordation, Conveyances or Sales".

ii. Preliminary documents are not required to have the licensee's seal, signature and date affixed, but must bear the name and license number of the licensee, and the name of the licensee's firm, if applicable.

4.c. - 5.b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying

Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:1910 (September 2009), LR 38:1418 (June 2012), LR 39:1481 (June 2013), LR 42:443 (March 2016), LR 43:344 (February 2017).

Donna D. Sentell
Executive Director

1702#031

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Cervid Carcass Importation (LAC 76:V.119)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has adopted rules and regulations in relation to the importation of cervid carcasses.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§119. Cervid Carcass Importation

A. Definitions

Cervid—any animal of the family *Cervidae* including, but not limited to, white-tailed deer, mule deer, elk, moose, caribou, fallow deer, axis deer, sika deer, red deer, and reindeer.

B. No person shall import, transport or possess any cervid carcass or part of a cervid carcass originating outside of Louisiana, except: for meat that is cut and wrapped; meat that has been boned out; quarters or other portions of meat with no part of the spinal column or head attached, antlers, clean skull plates with antlers, cleaned skulls without tissue attached, capes, tanned hides, finished taxidermy mounts and cleaned cervid teeth. Any and all bones shall be disposed of in a manner where its final destination is at an approved landfill or equivalent. Said rule shall be effective March 1, 2017.

C. Approved parts or deboned meat transported from other states must be legally possessed from the state it was taken. Approved parts and deboned meat from other states must contain a possession tag with the hunter's name, out-of-state license number (if required), address, species, date and location (county and state) of harvest. All cervids transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with Wildlife and Fisheries Commission and Department of Wildlife and Fisheries rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 43:344 (February 2017).

Chad J. Courville
Chairman

1702#015

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 112—Louisiana Connectors for English Language Learners (LAC 28:LXXXV.Chapters 1-7)

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 112—Louisiana Connectors for English Language Learners*: §101, Introduction; §301, Receptive Modalities; §303, Productive Modalities; and §305, Interactive Modalities.

Act 329 of the 2015 Regular Legislative Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. As a requirement and final step to the Louisiana student standards for English language arts and mathematics, which were enacted in the summer of 2016, the Louisiana Department of Education worked in partnership with Louisiana English language learner experts to establish a set of standards alignments. These alignments ensure that the standards are fully aligned to the Louisiana student standards. This alignment is also required by federal law in the Elementary and Secondary Education Act, known as the Every Student Succeeds Act.

Title 28 EDUCATION

Part LXXXV. Bulletin 112—Louisiana Connectors for English Language Learners

Chapter 1. Introduction

§101. Introduction

A. The Louisiana connectors for English language learners, developed for K, 1, 2-3, 4-5, 6-8, and 9-12, highlight and amplify the critical language, knowledge about language, and skills using language that are in college-and-career-ready standards and that are necessary for English language learners (ELL) to be successful in schools. The 10 connectors for English language learners highlight a strategic set of language functions (what students do with language to accomplish content-specific tasks) and language forms (vocabulary, grammar, and discourse specific to a particular content area or discipline) which are needed by English language learners as they develop competence in the practices associated with English language arts (ELA) and literacy, mathematics, and science. The five English language proficiency levels for each of the connectors address the question, “What might an English language learner’s language use look like at each English language proficiency level as he or she progresses toward independent participation in grade-appropriate activities?” The connectors might also be framed in relation to narrower domains of listening, speaking, reading, and writing and also in relation to broader receptive, productive, and interactive modalities. The interactive modalities category allows for

emphasis on the need for English language learners to meaningfully engage with their peers during content area instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§103. Listening Benchmarks and Proficiency Levels

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:768 (April 2004), repealed LR 43:

Chapter 3. Modalities

§301. Receptive Modalities

A. Receptive modalities refer to the learner as a reader or listener/viewer working with “text” whose author or deliverer is not present or accessible. It presumes that the interactions with authentic written or oral documents where language input is meaningful and content-laden. The learner brings background knowledge, experience, and appropriate interpretive strategies to the task to promote understanding of language and content in order to develop a personal reaction.

B. ELL connectors one (listening) and eight (reading) are the two domains of the receptive modality.

1. ELL Connector One. Construct meaning from oral presentations through grade-appropriate listening.

a. Level 1—Beginning

i. Kindergarten. By the end of kindergarten, English language learners should be able to use a very limited set of strategies to identify a few key words from read-alouds and oral presentations of information or stories.

ii. Grade One. By the end of first grade, English language learners should be able to use, with prompting and support (including context and visual aids), a very limited set of strategies to identify a few key words from read-alouds, picture books, and oral presentations.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to use a very limited set of strategies to identify a few key words and phrases from read-alouds, simple written texts, and oral presentations.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to use a very limited set of strategies to identify a few key words and phrases in oral communications and simple written texts.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to use a very limited set of strategies to identify a few key words and phrases in oral communications and simple written texts.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to use a very limited set of strategies

to identify a few key words and phrases in oral communications and simple oral and written texts.

b. Level 2—Early Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to use an emerging set of strategies to identify some key words and phrases from read-alouds, simple written texts, and oral presentations.

ii. Grade One. By the end of first grade, English language learners should be able to use an emerging set of strategies to identify key words and phrases from read-alouds, simple written texts, and oral presentations.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to use an emerging set of strategies to identify some key words and phrases from read-alouds, simple written texts, and oral presentations; and identify the main topic or message/lesson from read-alouds, simple written texts, and oral presentations.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to use an emerging set of strategies to identify the main topic from read-alouds, simple written texts, and oral presentations; and retell a few key details from read-alouds, simple written texts, and oral presentations.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to use an emerging set of strategies to identify the main topic in oral communications and simple written texts; and retell a few key details.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to use an emerging set of strategies to identify the main topic; and retell a few key details in oral presentations and simple oral and written texts.

c. Level 3—Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), use a developing set of strategies to identify main topics from read-alouds and oral presentations; and ask and answer questions about key details from read-alouds, simple written texts, and oral presentations.

ii. Grade One. By the end of first grade, English language learners should be able to use a developing set of strategies to identify main topics from read-alouds, simple written texts, and oral presentations; answer questions about key details from read-alouds, simple written texts, and oral presentations, and retell some key details from read-alouds, simple written texts, and oral presentations.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to use a developing set of strategies to identify the main topic or message from read-alouds, simple written texts, and oral presentations; answer questions from read-alouds, simple written texts, and oral presentations; and retell some key details from read-alouds, simple written texts, and oral presentations.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to use a developing set of strategies to determine the main idea or

theme, and retell a few key details from read-alouds, simple written texts, and oral presentations; and retell familiar stories.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to use a developing set of strategies to determine the central idea or theme in simple oral presentations or written texts and explain how the theme is supported by specific details.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to use a developing set of strategies to determine the central idea or theme in oral presentations and written texts; explain how the theme is developed by specific details in the texts; and summarize part of the text.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), use an increasing range of strategies to identify main topics from read-alouds, picture books, and oral presentations; answer questions about key details or parts of stories from read-alouds, picture books, and oral presentations; and retell events from read-alouds, picture books, and oral presentations.

ii. Grade One. By the end of first grade, English language learners should be able to use an increasing range of strategies to identify main topics from read-alouds, written texts, and oral presentations; ask and answer questions about an increasing number of key details from read-alouds, written texts, and oral presentations; and retell familiar stories or episodes of stories from read-alouds, written texts, and oral presentations.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to use an increasing range of strategies to determine the main idea or message from read-alouds, written texts, and oral presentations; identify or answer questions about some key details that support the main idea/message from read-alouds, written texts, and oral presentations; and retell a variety of stories.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to use an increasing range of strategies to determine the main idea or theme; explain how some details support the main idea or theme from read-alouds, written texts, and oral presentations; and summarize part of a text.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to use an increasing range of strategies to determine two or more central ideas or themes in oral presentations or written texts; explain how the central ideas/themes are supported by specific textual details; and summarize a simple text.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to use an increasing range of strategies to determine two central ideas or themes in oral presentations and written texts; analyze the development of the themes/ideas; cite specific details and evidence from the texts to support the analysis; and summarize a simple text.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), use a wide range of strategies to identify main topics from read-alouds, picture books, and oral presentations; answer questions about key details; and retell familiar stories.

ii. Grade One. By the end of first grade, English language learners should be able to use a wide range of strategies to identify main topics from read-alouds, written texts, and oral presentations; ask and answer questions about key details from read-alouds, written texts, and oral presentations; and retell stories, including key details from read-alouds, written texts, and oral presentations.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to use a wide range of strategies to determine the main idea or message from read-alouds, written texts, and oral communications; tell how key details support the main idea from read-alouds, written texts, and oral communications; and retell a variety of stories.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to use a wide range of strategies to determine two or more main ideas or themes from read-alouds, written texts, and oral presentations; explain how key details support the main ideas or themes from read-alouds, written texts, and oral presentations; and summarize a text.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to use a wide range of strategies to determine central ideas or themes in oral presentations or written texts; explain how the central ideas/themes are developed by supporting ideas or evidence; and summarize a text.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to use a wide range of strategies to determine central ideas or themes in presentations and written texts; analyze the development of the themes/ideas; cite specific details and evidence from the texts to support the analysis; and summarize a text.

2. ELL Connector Eight. An ELL can determine the meaning of words and phrases in oral presentation and literacy and informational text.

a. Level 1—Beginning

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), recognize the meaning of a few frequently occurring words in simple oral presentations and read-alouds about familiar topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support (including context and visual aids), recognize the meaning of a few frequently occurring words and phrases in simple oral presentations and read-alouds about familiar topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, relying heavily on visual aids, context, and knowledge of morphology in his or her native language, recognize the meaning of a few frequently occurring words, simple

phrases, and formulaic expressions, in simple oral discourse, read-alouds, and written texts about familiar topics, experiences, or events.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, relying heavily on visual aids, context, and knowledge of morphology in his or her native language recognize the meaning of a few frequently occurring words, phrases, and formulaic expressions in simple discourse, read-alouds, and written texts about topics, experiences, or events.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, relying heavily on visual aids, context, and knowledge of morphology in his or her native language, recognize the meaning of a few frequently occurring words and simple phrases in texts about familiar.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, relying heavily on visual aids, context, and knowledge of morphology in his or her native language, recognize the meaning of a few frequently occurring words, simple phrases, and formulaic expressions.

b. Level 2—Early Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), recognize the meaning of some frequently occurring words and phrases in simple oral presentations and read-alouds about familiar topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support (including context and visual aids), answer and sometimes ask simple questions to help determine the meaning of frequently occurring words and phrases in simple oral presentations and read-alouds about familiar topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, using context, visual aids, and knowledge of morphology in his or her native language, ask and answer questions about the meaning of frequently occurring words, phrases, and expressions in simple oral discourse, read-alouds, and written texts about familiar topics, experiences, or events.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, using context, some visual aids, reference materials, and knowledge of morphology in his or her native language, determine the meaning of some frequently occurring words, phrases, and expressions in simple discourse, read-alouds, and written texts about familiar topics, experiences, or events.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, using context, visual aids, reference materials, and knowledge of morphology in his or her native language determine the meaning of frequently occurring words, phrases, and expressions in texts about familiar topics, experiences or events.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, using context, visual aids, reference materials, and knowledge of morphology in his or

her native language, determine the meaning of frequently occurring words, phrases, and expressions in texts about familiar topics, experiences, or events.

c. Level 3—Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), answer questions to help determine the meaning of some words and phrases in simple oral presentations and read-alouds about familiar topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to, using sentence-level context and visual aids, answer and sometimes ask questions to help determine the meaning of some less frequently occurring words and phrases in oral presentations, read-alouds, and simple texts about familiar topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, using context, some visual aids, reference materials, and a developing knowledge of English morphology, determine the meaning of less-frequently occurring words and phrases, content-specific words, and some idiomatic expressions in oral discourse, read-alouds, and written texts about familiar topics, experiences, or events.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, using context, visual aids, reference materials, and a developing knowledge of English morphology, determine the meaning of frequently occurring words and phrases in texts about familiar topics, experiences, or events; and determine the meanings of some idiomatic expressions in texts about familiar topics, experiences, or events.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, using context, visual aids, reference materials, and a developing knowledge of English morphology (e.g. affixes and root words), determine the meaning of general academic and content-specific words and phrases and frequently occurring expressions in texts about familiar topics, experiences, or events.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, using context, some visual aids, reference materials, and a developing knowledge of English morphology (e.g., affixes and root words), determine the meaning of general academic and content-specific words and phrases and frequently occurring expressions in texts about familiar topics, experiences, or events.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), answer and sometimes ask questions about the meaning of words and phrases in simple oral presentation and read-alouds about a variety of topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to, using sentence context, visual aids, and some knowledge of frequently occurring root words and their inflectional forms, answer and ask questions to help determine the meaning of less common words, phrases, and simple idiomatic expressions in oral

presentations and written texts about a variety of topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, using context, some visual aids, reference materials, and an increasing knowledge of morphology (root words, some prefixes) determine the meaning of less-frequently occurring words and phrases and some idiomatic expressions in oral discourse, read-alouds, and written texts about a variety of topics, experiences, or events, and, at Grade 3, some general academic and content-specific vocabulary.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, using context, reference materials, and an increasing knowledge of English morphology determine the meaning of general academic and content-specific words and phrases in texts about a variety of topics, experiences, or events; and determine the meaning of a growing number of idiomatic expressions in texts about a variety of topics, experiences, or events.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, using context, reference materials, and an increasing knowledge of English morphology, determine the meaning of general academic and content-specific words and phrases, and a growing number of idiomatic expressions in texts about a variety of topics, experiences, or events.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, using context, increasingly complex visual aids, reference materials, and an increasing knowledge of English morphology, determine the meaning of general academic and content-specific words and phrases, figurative and connotative language, and a growing number of idiomatic expressions in texts about a variety of topics, experiences, or events.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support (including context and visual aids), ask and answer questions about the meaning of words and phrases in simple oral presentations and read-alouds about a variety of topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to, using context, some visual aids, and knowledge of morphology (e.g., simple inflectional endings such as -ed, -ing, and some common prefixes), answer and ask questions to help determine or clarify the meaning of words, phrases, and idiomatic expressions in oral presentations and written texts about a variety of topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, using context, reference materials, and morphology (e.g., root words, simple inflectional endings such as -ed, -ing, and some common prefixes), determine the meaning of less-frequently occurring words, phrases, and some idiomatic expressions in oral presentations and written texts about a variety of topics, experiences, or events; and, at grade 3, some general academic and content-specific vocabulary.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to,

using context, reference materials, and knowledge of English morphology, determine the meaning of general academic and content-specific words and phrases in texts about a variety of topics, experiences, or events; and determine the meaning of figurative language (e.g., metaphors, similes, adages, and proverbs) in topics, experiences, or events.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, using context, reference materials, and knowledge of English morphology, determine the meanings of general academic and content-specific words and phrases, idiomatic expressions, and figurative and connotative language (e.g., metaphor, personification) in texts about a variety of topics, experiences, or events.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, using context, complex visual aids, reference materials, and consistent knowledge of English morphology, determine the meaning of general academic and content-specific words and phrases, figurative and connotative language (e.g., irony, hyperbole), and idiomatic expressions in texts about a variety of topics, experiences, or events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§303. Productive Modalities

A. Productive modalities place the learner as speaker and writer for a “distant” audience, one with whom interaction is not possible or limited. The communication is set for a specified audience, has purpose, and generally abides by rules of genre or style. It is a planned or formalized speech act or written document, and the learner has an opportunity to draft, get feedback, and revise, before publication or broadcast.

B. ELL connectors three, four, and seven are the domains of the productive (speaking and writing) modality.

1. ELL Connector Three. Construct meaning from oral presentations through grade-appropriate listening.

a. Level 1—Beginning

i. Kindergarten. By the end of kindergarten, English language learners should be able to communicate simple information or feelings about familiar topics or experiences.

ii. Grade One. By the end of first grade, English language learners should be able to communicate simple information or feelings about familiar topics or experiences.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to communicate simple information about familiar texts, topics, experiences, or events.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to communicate simple information about familiar texts, topics, events, or objects in the environment.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, communicate simple information about familiar texts, topics, and experiences.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, with support (including modeled

sentences), communicate information about familiar texts, topics, and experiences.

b. Level 2—Early Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to communicate simple information or feelings about familiar topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to communicate simple messages about familiar topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to deliver simple oral presentations about familiar texts, topics, experiences, or events; and compose written texts about familiar texts, topics, experiences, or events.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to deliver short oral presentations about familiar texts, topics, and experiences; compose written texts about familiar texts, topics, and experiences.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to deliver short oral presentations about familiar texts, topics, experiences, or events; and compose written narratives or informational texts about familiar texts, topics, experiences, or events.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, with support (including modeled sentences), deliver short oral presentations about familiar texts, topics, experiences, or events; and compose written narratives or informational texts about familiar texts, topics, experiences, or events.

c. Level 3—Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to communicate information or feelings about familiar topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to deliver short simple oral presentations about familiar topics, stories, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to deliver short oral presentations about familiar texts, topics, experiences, or events; compose written narratives about familiar texts, topics, experiences, or events; and compose informational texts about familiar texts, topics, experiences, or events.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, including a few details, deliver short oral presentations about familiar texts, topics, and experiences; and compose written narratives or informational texts about familiar texts, topics, and experiences.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to deliver short oral presentations about familiar texts, topics, and experiences; compose written narratives or informational texts about familiar texts, topics, and experiences; and deliver texts with some details about familiar texts, topics, and experiences.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to, with support (including modeled sentences), deliver short oral presentations about familiar texts, topics, or events; compose written informational texts about familiar texts, topics, or events; and develop the topic with a few details.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to tell or dictate simple messages about a variety of topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to, using simple sentences and drawings or illustrations, deliver short simple oral presentations about a variety of texts, topics, experiences, or events; and compose written texts about a variety of texts, topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to deliver short oral presentations about a variety of texts, topics, experiences, or events; compose written narratives about a variety of texts, topics, experiences, or events; and compose informational texts about a variety of texts, topics, experiences, or events.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, including some details, deliver short oral presentations about a variety of texts, topics, and experiences; and compose written narratives or informational texts about a variety of texts, topics, and experiences.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to deliver oral presentations about a variety of texts, topics, and experiences; compose written narratives or informational texts about a variety of texts, topics, or experiences; and develop texts with some specific details about a variety of texts, topics, and experiences.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to deliver oral presentations about a variety of texts, topics, or events; compose written informational texts about a variety of texts, topics, or events; develop the topic with some relevant details, concepts, examples, and information; and integrate graphics or multimedia when useful.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to make simple oral presentations about a variety of topics, experiences, or events; and compose short written texts about a variety of topics, experiences, or events.

ii. Grade One. By the end of first grade, English language learners should be able to, including a few descriptive details, deliver oral presentations about a variety of texts, topics, experiences, or events; and compose written texts.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, with some details, deliver oral presentations about a variety of texts, topics, experiences, or events; compose written

narratives about a variety of texts, topics, experiences, or events; and compose informational texts.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, including details and examples to develop a topic, deliver oral presentations about a variety of texts, topics, and experiences; and compose written narrative or informational texts.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to deliver oral presentations about a variety of texts, topics, and experiences; compose written narratives or informational texts about a variety of texts, topics, and experiences; and develop texts with relevant details, ideas, or information about a variety of texts, topics, or experiences.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to recount a complex and detailed sequence of events or steps in a process, with an effective sequential or chronological order; introduce and effectively develop an informational topic with fact, details, and evidence; use complex and varied transitions to link the major sections of text and speech and to clarify relationships among events and ideas; and provide a concluding section or statement.

2. ELL Connector Four. Construct grade-appropriate complex oral and written claims and support them with reasoning and evidence.

a. Level 1—Beginning

i. Kindergarten. By the end of kindergarten, English language learners should be able to express a feeling or opinion about a familiar topic showing limited control.

ii. Grade One. By the end of first grade, English language learners should be able to express a preference or opinion about familiar topics or experiences.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to express an opinion about a familiar topic.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to express an opinion about a familiar topic.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to express an opinion about a familiar topic.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to express an opinion about a familiar topic.

b. Level 2—Early Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to express an opinion or preference about a familiar topic showing emerging control.

ii. Grade One. By the end of first grade, English language learners should be able to express an opinion about familiar topics, experiences, or events.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to express an opinion about a familiar topic or story.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to construct a simple claim about a familiar topic; and give a reason to support the claim.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to construct a simple claim about a familiar topic; and give a reason to support the claim.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to construct a claim about familiar topics; introduce the topic; give a reason to support the claim; and provide a concluding statement.

c. Level 3—Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to express an opinion or preference about a familiar topic showing developing control.

ii. Grade One. By the end of first grade, English language learners should be able to express an opinion about familiar topics, experiences, or events; and give a reason for the opinion.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to express an opinion about a familiar topic or story; and give one or more reasons for the opinion.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to construct a claim about familiar topics; introduce the topic; and provide a few reasons or facts to support the claim.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to construct a claim about a familiar topic; introduce the topic; provide several supporting reasons or facts in a logical order; and provide a concluding statement.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to construct a claim about familiar topics; introduce the topic; provide sufficient reasons or facts to support the claim; and provide a concluding statement.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to express an opinion or preference about a variety of topics or stories showing increasing control.

ii. Grade One. By the end of first grade, English language learners should be able to express opinions about a variety of texts, topics, experiences, and events; and give a reason for the opinion.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to introduce a topic about a variety of topics; express opinions about a variety of topics; and give several reasons for the opinions.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to construct a claim about a variety of topics; introduce the topic; provide several reasons or facts to support the claim; and provide a concluding statement.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to construct a claim about a variety of topics;

introduce the topic; provide sufficient reasons or facts to support the claim; and provide a concluding statement.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to construct a claim about a variety of topics; introduce the topic; provide logically ordered reasons or facts that effectively support the claim; and provide a concluding statement.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to express an opinion or preference about a variety of topics or stories showing increasing control.

ii. Grade One. By the end of first grade, English language learners should be able to express opinions about a variety of texts, topics, experiences, or events; introduce the topic; give a reason for the opinion; and provide a sense of closure.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to introduce a topic about a variety of topics; express opinions about a variety of topics; give several reasons for the opinions; and provide a concluding statement.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to construct a claim about a variety of topics; introduce the topic; provide logically ordered reasons or facts to support the claim; and provide a concluding statement.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to construct a claim about a variety of topics; introduce the topic; provide compelling and logically ordered reasons or facts that effectively support the claim; and provide a concluding statement.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to construct a substantive claim about a variety of topics; introduce the claim; distinguish it from a counter-claim; provide logically ordered and relevant reasons and evidence to support the claim and to refute the counter-claim; and provide a conclusion that summarizes the argument presented.

3. ELL Connector Seven. Adapt language choices to purpose, task, and audience when speaking and writing.

a. Level 1—Beginning

i. Kindergarten. Standard introduced at level 4—advanced.

ii. Grade One. Standard introduced at level 3—upper intermediate.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to recognize the meaning of some words learned through conversations, reading, and being read to.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to recognize the meaning of some words learned through conversations, reading, and being read to.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to recognize the meaning of some words learned through conversations, reading, and being read to.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to recognize the meaning of some words learned through conversations, reading, and being read to.

b. Level 2—Early Intermediate

i. Kindergarten. Standard introduced at level 4—advanced.

ii. Grade One. Standard introduced at level 3—upper intermediate.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to show increasing awareness of differences between informal “playground speech” and language appropriate to the classroom; and use some words learned through conversations, reading, and being read to.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, with emerging control adapt language choices to different social and academic contents; and use some words through conversations, reading, and being read to.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, with emerging control, adapt language choices according to task and audience; begin to use frequently occurring general academic and content-specific words and phrases in conversations and discussions.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to adapt language choices to task and audience with emerging control; use some frequently occurring general academic and content-specific words in conversations and discussion.

c. Level 3—Intermediate

i. Kindergarten. Standard introduced at level 4—advanced.

ii. Grade One. By the end of first grade, English language learners should be able to show a developing awareness between appropriate language for the playground and language for the classroom.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to compare examples of the formal and informal use of English at grade 3, use an increasing number of general academic and content-specific words in conversations and discussions.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, with developing control, adapt language choices according to purpose, task, and audience in conversations, discussions, and short written texts; and use an increasing number of general academic and content-specific words, phrases, and expressions in conversation, discussions, and shorten written text.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, with developing ease, adapt language choices and style according to purpose, task, and audience; use an increasing number of general academic and content-specific words and phrases in speech and short written texts; and show developing control of style and tone in oral or written text.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to adapt language choices and style according to purpose, task, and audience with developing ease; use an increasing number of general academic and content-specific words and expressions in speech and written text; and show developing control of style and tone in oral or written text.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to show a developing awareness of the difference between appropriate language for the playground and language for the classroom.

ii. Grade One. By the end of first grade, English language learners should be able to show awareness of differences between informal “playground speech” and language appropriate to the classroom; and use some words learned through conversations, reading, and being read to.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to adapt language choices, as appropriate, to formal and informal contexts; and at grade 3, use a wider range of general academic and content-specific words in conversations and discussions.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to, with increasing ease, adapt language choices and style (includes register) according to purpose, task, and audience in speech and writing; and use a wider range of general academic and content-specific words and phrases in speech and writing.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, with developing ease, adapt language choices and style according to purpose, task, and audience; use a wider range of general academic and content-specific academic words and phrases; and maintain consistency to style and tone throughout most of oral or written text.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to adapt language choices and style according to purpose, task, and audience; use a wider range of complex general academic and content-specific words and phrases; and adapt and maintain a formal style in speech and writing as appropriate.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to show awareness of differences between informal (“playground speech”) and language appropriate to the classroom; and cite some words learned through conversations, reading, and being read to.

ii. Grade One. By the end of first grade, English language learners should be able to shift appropriately between informal “playground speech” and language appropriate to the classroom most of the time; and use words learned through conversations, reading, and being read to.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to adapt language choices, as appropriate, to formal and informal contexts; and at grade 3, use a wide variety of general and content-specific academic words and phrases in conversations or in short written texts.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to adapt language choices and style according to purpose, task, and audience in speech in speech and writing; and use a wide variety of general academic and content-specific words and phrases in speech and writing.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to, with ease, adapt language choices and style according to purpose, task, and audience; use a wide variety of complex general academic and content-specific academic words to precisely express ideas; and maintain an appropriate and consistent style and tone throughout an oral or written text.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to adapt language choices and style according to purpose, task, and audience with ease; use a wide variety of complex general academic and content-specific words and phrases; and employ both formal and more informal styles effectively as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§305. Interactive Modalities

A. Interactive modalities refer to the learner as a speaker/listener and reader/writer. It requires two-way interactive communication where negotiation of meaning may be observed. The exchange will provide evidence of awareness of the socio-cultural aspects of communication as language proficiency develops.

B. ELL connectors two, five, and six are the domains of the interactive (listening, speaking, reading and writing) modality.

1. ELL Connector Two. Participate in grade appropriate oral and written exchanges of information, ideas, and analyses, responding to peer, audience, or reader comments and questions.

a. Level 1—Beginning

i. Kindergarten. By the end of kindergarten, English language learners should be able to listen with limited participation in short conversations; and respond to simple yes/no and some *wh-* questions about familiar topics.

ii. Grade One. By the end of first grade, English language learners should be able to listen to short conversations; and respond to simple yes/no and some WH questions about familiar topics.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to listen to and occasionally participate in short conversations; and respond to simple yes/no and some *wh-* questions about familiar topics.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to participate in short conversations; participate in short written exchanges; actively listen to others; and respond to simple questions and some *wh-* questions about familiar topics.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to participate in short conversational and written exchanges on familiar topics; present simple information; and respond to simple questions and some *wh-* questions.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to participate in short conversational and written exchanges on familiar topics; present information; and respond to simple yes/no questions and some *wh-* questions.

b. Level 2—Early Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to participate in short conversations; and respond to simple yes/no and *wh-* questions about familiar topics.

ii. Grade One. By the end of first grade, English language learners should be able to participate in short conversations; take turns; and respond to simple yes/no and *wh-* questions about familiar topics.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to participate in short conversations, discussions, and written exchanges; take turns; and respond to simple yes/no and *wh-* questions about familiar topics.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to participate in short conversations; participate in short written exchanges; actively listen to others; and respond to simple questions and some *wh-* questions.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to participate in short conversational and written exchanges on familiar topics and texts; present information and ideas; respond to simple questions and *wh-* questions.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to participate in short conversational and written exchanges on familiar topics and texts; present information and ideas; and respond to simple questions and *wh-* questions.

c. Level 3—Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to participate in short conversations; follow some rules for discussion; and respond to simple yes/no and *wh-* questions about familiar topics.

ii. Grade One. By the end of first grade, English language learners should be able to participate in short discussions, conversations, and short written exchanges; follow rules for discussion; and ask and answer simple questions about familiar topics.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to participate in short discussions and written exchanges; follow the rules for discussion; ask questions to gain information or clarify understanding; respond to the comments of others; and contribute his or her own comments about familiar topics and texts.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to participate in short conversations and discussions; participate in short written exchanges; respond to others' comments; add some comments of his or her own; and ask and answer questions about familiar topics and texts.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should

be able to participate in conversations, discussions, and written exchanges on familiar topics and texts; build on the ideas of others; express his or her own ideas; ask and answer relevant questions; and add relevant information.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to participate in conversations, discussions, and written exchanges on familiar topics, texts, and issues; build on the ideas of others; express his or her own ideas; ask and answer relevant questions; add relevant information and evidence; and restate some of the key ideas expressed.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to participate in conversations and discussions; ask and answer simple questions; and follow increasing number of rules for discussion about a variety of topics.

ii. Grade One. By the end of first grade, English language learners should be able to participate in discussions, conversations, and written exchanges; follow rules for discussion; ask and answer questions; respond to the comments of others; and make comments of his or her own about a variety of topics and texts.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to participate in discussions, conversations, and written exchanges; follow the rules for discussion; ask and answer questions; build on the ideas of others; and contribute his or her own ideas about a variety of topics and texts.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to participate in conversations and discussions; participate in written exchanges; build on the ideas of others; express his or her own ideas; ask and answer relevant questions; and add relevant information and evidence about a variety of topics and texts.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to participate in conversations, discussions, and written exchanges on a variety of topics, texts, and issues; build on the ideas of others; express his or her own ideas; ask and answer relevant questions; add relevant information and evidence; and paraphrase the key ideas expressed.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to participate in conversations, discussions, and written exchanges on a range of topics, texts, and issues; build on the ideas of others; express his or her own ideas clearly; support points with specific and relevant evidence; ask and answer questions to clarify ideas and conclusions; and summarize the key points expressed.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to participate in conversations and discussions; ask and answer questions; and follow rules for discussion about a variety of topics.

ii. Grade One. By the end of first grade, English language learners should be able to participate in extended discussions, conversations, and written exchanges; follow rules for discussion; ask and answer questions; build on the

comments of others; and contribute his or her own comments about a variety of topics and texts.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to participate in extended discussions, conversations, and written exchanges; follow the rules for discussion; ask and answer questions; build on the ideas of others; and express his or her own ideas about a variety of topics and texts.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to participate in extended conversations and discussions; participate in extended written exchanges; build on the ideas of others; express his or her own ideas clearly; pose and respond to relevant questions; add relevant and detailed information using evidence; and summarize the key ideas expressed about a variety of topics and texts.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to participate in extended conversations, discussions, and written exchanges about a variety of topics, texts, and issues build on the ideas of others; express his or her own ideas clearly; pose and respond to relevant questions; add relevant and specific evidence; summarize the key ideas; and reflect on the key ideas expressed.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to participate in extended conversations, discussions, and written exchanges on a range of substantive topics, texts, and issues; build on the ideas of others; express his or her own ideas clearly and persuasively; refer to specific and relevant evidence from texts or research to support his or her ideas; ask and answer questions that probe reasoning and claims; and summarize the key points and evidence discussed.

2. ELL Connector Five. Conduct research and evaluate and communicate findings to answer or solve problems.

a. Level 1—Beginning

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support from adults, recall information from experience or from a provided source.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support from adults, participate in shared research projects; gather information; and label information from provided sources showing limited control.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, with prompting and support, carry out short individual or shared research projects; and gather information from provided sources; and label information.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to recall information from experience; gather information from a few provided sources; and label some key information.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to gather information from a few provided sources; and label collected information.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to gather information from a few provided print and digital sources; and label collected information, experiences, or events.

b. Level 2—Early Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support from adults, recall information from experience or use information from a provided source to answer a question.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support from adults, participate in shared research projects; gather information; and summarize some key information from provided sources showing emerging control.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, with prompting and support, carry out short individual or shared research projects; recall information from experience; gather information from provided sources; and record some information/observations in simple notes.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to recall information from experience; gather information from provided sources; and record some information.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to gather information from provided sources; and record some data and information.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to gather information from provided print and digital sources; and summarize data and information.

c. Level 3—Intermediate

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support from adults, recall information from experience or use information from provided sources to answer a question showing developing control.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support from adults, participate in shared research projects; gather information; and summarize information from provided sources showing developing control.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, with prompting and support, carry out short individual or shared research projects; recall information from experience; gather information from provided sources; and record information/ observations in orderly notes.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to recall information from experience; gather information from print and digital sources to answer a question; and identify key information in orderly notes.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to gather information from multiple provided print and digital sources; summarize or paraphrase observations,

ideas, and information, with labeled illustrations, diagrams, or other graphics, as appropriate; and cite sources.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to carry out short research projects to answer a question; gather information from multiple provided print and digital sources; evaluate the reliability of each source; paraphrase key information in a short written or oral report; include illustrations, diagrams, or other graphics; and provide a list of sources.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support from adults, recall information from experience or use information from provided sources to answer a question showing increasing control.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support from adults, participate in shared research projects; gather information; summarize information; and answer a question from provided sources showing increasingly independent control.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, with prompting and support, carry out short individual or shared research projects; recall information from experience; gather information from multiple sources; and sort evidence into provided categories.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to recall information from experience; gather information from print and digital sources to answer a question; record information in organized notes, with charts, tables, or other graphics, as appropriate; and provide a list of sources.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to gather information from multiple print and digital sources; use search terms effectively; quote or paraphrase the data and conclusions of others, using charts, diagrams, or other graphics, as appropriate; cite sources; and use a standard format for citations.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to carry out both short and more sustained research projects to answer a question; gather and synthesize information from multiple print and digital sources; use search terms effectively; evaluate the reliability of each source; integrate information into an organized oral or written report; and cite sources appropriately.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support from adults, recall information from experience or use information from provided sources to answer a question showing increasing control.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support from adults, participate in shared research projects; gather information; summarize information; and answer a question from provided sources showing independent control.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to carry out short individual or shared research projects; recall information from experience; gather information from multiple sources; and sort evidence into categories.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to recall information from experience; gather information from print and digital sources; summarize key ideas and information in detailed and orderly notes, with graphics as appropriate; and provide a list of sources.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to gather information from multiple print and digital sources; use search terms effectively; at Grade Eight, evaluate the credibility of each source; quote or paraphrase the data and conclusions of others using charts, diagrams, or other graphics, as appropriate; cite sources; and use a standard format for citations.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to carry out both short and more sustained research projects to answer a question or solve a problem; gather and synthesize information from multiple print and digital sources; use advanced search terms effectively; evaluate the reliability of each source; analyze and integrate information into a clearly organized oral or written text; and cite sources appropriately.

3. ELL Connector Six. Analyze and critique the arguments of others orally and in writing.

a. Level 1—Beginning

i. Kindergarten. Standard introduced at level 4—advanced.

ii. Grade One. Standard introduced at level 2—lower intermediate.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, with prompting and support, use a few frequently occurring words and phrases to identify a point made by an author or a speaker.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to identify a point made by an author or a speaker.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to identify a point made by an author or a speaker.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to identify a point made by an author or a speaker.

b. Level 2—Early Intermediate

i. Kindergarten. Standard introduced at level 4—advanced.

ii. Grade One. By the end of first grade, English language learners should be able to, with prompting and support, identify a reason an author or a speaker gives to support a point.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to, with prompting and support, identify a reason an author or a speaker gives to support the main point.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to identify a reason an author or speaker gives to support a main point; and agree or disagree with the author or speaker.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to identify the main argument made by an author or a speaker; and identify one reason an author or a speaker gives to support the argument.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to identify the main argument made by an author or a speaker; and identify one reason an author or a speaker gives to support the argument.

c. Level 3—Intermediate

i. Kindergarten. Standard introduced at level 4—advanced.

ii. Grade One. By the end of first grade, English language learners should be able to identify one or two reasons an author or a speaker gives to support the main point.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to tell how one or two reasons support the main point an author or a speaker makes.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to tell how one or two reasons support the specific points an author or speaker makes or fails to make.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to explain the argument an author or a speaker makes; and distinguish between claims that are supported by reasons and evidence from those that are not.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to explain the reasons an author or a speaker gives to support a claim; and cite textual evidence to support the analysis.

d. Level 4—Early Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support, identify a reason an author or speaker gives to support a point.

ii. Grade One. By the end of first grade, English language learners should be able to identify reasons an author or a speaker gives to support the main point.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to tell how one or two reasons support the specific points an author or a speaker makes.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to describe how reasons support the specific points an author or speaker makes or fails to make.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to analyze the argument and specific claims made in texts or speech; determine whether the evidence is sufficient to support the claims; cite textual evidence to support the analysis.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to analyze the reasoning and use of rhetoric in persuasive texts or speeches, including documents of historical and literary significance; determine whether the evidence is sufficient to support the claim; and cite textual evidence to support the analysis.

e. Level 5—Advanced

i. Kindergarten. By the end of kindergarten, English language learners should be able to, with prompting and support, identify appropriate reasons an author or speaker gives to support main points.

ii. Grade One. By the end of first grade, English language learners should be able to identify appropriate reasons an author or a speaker gives to support the main point.

iii. Grades Two and Three. By the end of second and third grade, English language learners should be able to describe how reasons support the specific points an author or a speaker makes.

iv. Grades Four and Five. By the end of fourth and fifth grade, English language learners should be able to explain how an author or speaker uses reasons and evidence to support or fail to support particular points; and, at grade 5, identify which reasons and evidence support which points.

v. Grades Six through Eight. By the end of sixth, seventh, and eighth grade, English language learners should be able to analyze and evaluate the argument and specific claims made in texts or speech/ presentations; determine whether the reasoning is sound and the evidence is relevant and sufficient to support the claims; and cite textual evidence to support the analysis.

vi. Grades Nine through Twelve. By the end of ninth, tenth, eleventh, and twelfth grade, English language learners should be able to analyze and evaluate the reasoning and use of rhetoric in persuasive texts, including documents of historical and literary significance; determine whether the evidence is sufficient to support the claim; and cite specific textual evidence to thoroughly support the analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Chapter 5. Standard Three

§501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:770 (April 2004), repealed LR 43:

§503. Reading Benchmarks and Proficiency Levels

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:770 (April 2004), repealed LR 43:

Chapter 7. Standard Four

§701. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:771 (April 2004), repealed LR 43:

§703. Writing Benchmarks and Proficiency Levels

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:771 (April 2004), 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, March 11, 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 112—Louisiana Connectors for English Language Learners**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 329 of the 2015 Regular Legislative Session provided for the review and development of state content standards for English Language Arts (ELA) and mathematics. As a requirement and final step to the Louisiana Student Standards for English Language Arts and Mathematics, which were enacted in the summer of 2016, the Louisiana Department of Education (LDE) worked in partnership with Louisiana English language learner experts to establish a set of standards alignments. These alignments ensure that the standards are fully aligned to the Louisiana Student Standards and comply with the federal requirements of the Every Student Succeeds Act.

The proposed action will result in increased costs and workload adjustments to local school districts (LEA). While some resources may be made available by the LDE and from some publishers at no or very low cost, not all local school systems use those vendors. Each LEA is required to provide instruction aligned to BESE approved standards and has the autonomy and flexibility to develop, adopt, and utilize instructional materials that best support their students' achievement of standards. Most districts utilize multiple vendors to develop instructional materials, supplements, and curricula guides, as well as benchmark assessment, including those tied to student learning targets for the school and teacher accountability programs, all of which vary across systems. Some districts develop their own materials and/or assessments. Furthermore, districts may incur costs for teachers attending training provided by the LDE and for providing additional

training for all other teachers in order to implement the standards successfully.

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.

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Deputy Superintendent
1702#013

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities (LAC 28:XI.Chapters 91-95)

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 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities*: §9101, Introduction; §9301, Reading Literature; §9302, Reading Informational Text; §9303, Reading Foundation; §9304, Writing; §9305, Speaking and Listening; §9306, Reading Literature; §9307, Reading Informational Text; §9308, Reading Foundation; §9309, Writing; §9310, Speaking and Listening; §9311, Language; §9312, Reading Literature; §9313, Reading Informational Text; §9314, Reading Foundations; §9315, Writing; §9316, Speaking and Listening; §9317, Language; §9318, Reading Literature; §9319, Reading Informational Text; §9320, Reading Foundations; §9321, Writing; §9322, Speaking and Listening; §9323, Language; §9324, Reading Literature; §9325, Reading Informational Text; §9326, Reading Foundations; §9327, Writing; §9328, Speaking and Listening; §9329, Language; §9330, Reading Literature; §9331, Reading Informational Text; §9332, Reading Foundations; §9333, Writing; §9334, Speaking and Listening; §9335, Language; §9336, Reading Literature; §9337, Reading Informational Text; §9338, Writing; §9339, Speaking and Listening; §9340, Language; §9341, Reading Literature; §9342, Reading Informational Text; §9343, Writing; §9344, Speaking and Listening; §9345, Language; §9346, Reading Literature; §9347, Reading Informational Text; §9348, Writing; §9349, Speaking and Listening; §9350, Language; §9351, Reading Literature; §9352, Reading Informational Text; §9353, Writing; §9354, Speaking and Listening; §9355, Language; §9356, Reading Literature; §9357, Reading Informational Text; §9358, Writing; §9359, Speaking and Listening; §9360, Language; §9501, Counting and Cardinality; §9503, Operations and Algebraic Thinking; §9505, Number and Operations in Base

Ten; §9507, Measurement and Data; §9509, Geometry; §9511, Counting and Cardinality; §9513, Operations and Algebraic Thinking; §9515, Number and Operations in Base Ten; §9517, Measurement and Data; §9519, Geometry; §9521, Operations and Algebraic Thinking; §9523, Number and Operations in Base Ten; §9525, Measurement and Data; §9527, Geometry; §9529, Operations and Algebraic Thinking; §9531, Number and Operations in Base Ten; §9533, Number and Operations—Fractions; §9535, Measurement and Data; §9537, Geometry; §9539, Operations and Algebraic Thinking; §9541, Number and Operations in Base Ten; §9543, Number and Operations—Fractions; §9545, Measurement and Data; §9547, Geometry; §9549, Operations and Algebraic Thinking; §9551, Number and Operations in Base Ten; §9553, Number and Operations—Fractions; §9555, Measurement and Data; §9557, Geometry; §9559, Ratios and Proportional Relationships; §9561, The Number System; §9563, Expressions and Equations; §9565, Geometry; §9567, Statistics and Probability; §9569, Ratios and Proportional Relationships; §9571, The Number System; §9573, Expressions and Equations; §9575, Geometry; §9577, Statistics and Probability; §9579, The Number System; §9581, Expressions and Equations; §9583, Functions; §9585, Geometry; §9587, Statistics and Probability; §9589, Number and Quantity; §9591, Algebra; §9593, Statistics and Probability; §9595, Number and Quantity; §9596, Algebra; §9597, Statistics and Probability; §9598, Geometry; and §9599, Statistics and Probability.

Act 329 of the 2015 Regular Legislative Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. As a requirement and final step to the Louisiana student standards for English language arts and mathematics, which were enacted in the summer of 2016, the LDE worked in partnership with Louisiana special education experts to establish a set of standards alignments. These alignments ensure that the standards, which are found in Bulletin 127, LEAP Alternate Assessment, Level 1 (LPAA) Extended Standards, are fully aligned to the Louisiana student standards. This alignment is also required by federal law in the Elementary and Secondary Education Act, known as the Every Student Succeeds Act.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

**Subpart 5. Bulletin 127—LEAP Connect Assessment,
Louisiana Connectors for Students with Significant
Cognitive Disabilities**

Chapter 91. Introduction

§9101. Introduction

[Formerly LAC 28:CXLI.101]

A. The Louisiana connect exam for students with significant cognitive disabilities aligned to the Louisiana standards in:

1. English-language arts;
2. mathematics; and
3. science.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

**§9103. Purposes of the Extended Standards Handbook
[Formerly LAC 28:CXLI.103]**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2340 (November 2008), repealed LR 43:

**§9105. Extended Standards Development
[Formerly LAC 28:CXLI.105]**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2340 (November 2008), repealed LR 43:

§9107. Conclusion

[Formerly LAC 28:CXLI.107]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2340 (November 2008), repealed LR 43:

§9109. Definitions

[Formerly LAC 28:CXLI.109]

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2340 (November 2008), repealed LR 43:

Chapter 93. English Language Arts

Subchapter A. Kindergarten

§9301. Reading Literature

A. With prompting and support, answer questions about key details in a story.

B. With prompting and support, retell a favorite story, including key details.

C. With prompting and support, sequence a set of events in a familiar story.

D. With prompting and support, identify the beginning, middle, and ending of a familiar story.

E. Retell a familiar story (e.g., "What was the story about?").

F. With prompting and support, identify characters in a story.

G. With prompting and support, identify major events (e.g., problem or solution) in a story.

H. With prompting and support, show how characters interacted in a story.

I. With prompting and support, identify a setting in a story.

J. Ask questions about unknown words in a text.

K. Answer questions about unknown words in a text.

L. Answer questions about reading such as "Why do we read? What do we read?"

M. Recognize common types of text.

N. With prompting and support, identify the author of a familiar story (e.g., Show me the author, Show me who wrote the book).

O. With prompting and support, define the role of the author.

- P. With prompting and support, identify the illustrator.
- Q. With prompting and support, define the role of the illustrator.
- R. With prompting and support, identify illustrations to aid comprehension.
- S. With prompting and support, identify the relationship between an illustration and the story.
- T. With prompting and support, compare and contrast (i.e., find something the same and something different) between familiar stories.
- U. Answer questions about reading (e.g., "Why do we read? What do we read?")
- V. Choose a literary text or poems to read and reread, listen to, or view for leisure purposes.
- W. Engage in group reading of stories or poems by sharing something learned or something enjoyed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9302. Reading Informational Text

- A. With prompting and support, answer questions about key details in a text.
- B. Discuss key details and main topic of a preferred text.
- C. With prompting and support identify the main topic.
- D. With prompting and support, retell/identify key details in a text.
- E. With prompting and support, describe the connection between two individuals, events, ideas, or pieces of information in a text.
- F. Ask questions about unknown words in a text.
- G. Answer questions about unknown words in a text.
- H. Distinguish front of book from back of book.
- I. Identify the title of an informational text or the title page.
- J. Identify the title of a story or poem or the title page.
- K. Identify the author's purpose in an informational text.
- L. Identify a labeled photo or diagram or graphic from within an informational text.
- M. With prompting and support, interpret the information provided in photos or diagrams or graphics and the text in which they appear (e.g., what person, place, thing, or idea in the text an illustration depicts).
- N. With prompting and support, identify the facts an author gives to support points in a text.
- O. With prompting and support, identify basic similarities in and differences between two texts on the same topic (e.g., imaginary or real bear; photo versus illustration of something not real).
- P. Choose an informational text to read and reread, listen to, or view for leisure or informational purposes (e.g., to answer questions; understand the world around them).
- Q. Engage in group reading of informational text by sharing something learned or something enjoyed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9303. Reading Foundations

- A. During shared reading activities, point to text from top to bottom of page and left to right.
- B. During shared reading activities, indicate need to turn the page for continued reading.

- C. Distinguish individual letters from words.
- D. Identify familiar written words when spoken (e.g., Show me the word "Tony").
- E. Recognize that words are separated by spaces in print.
- F. Identify or name uppercase letters of the alphabet.
- G. Recognize rhyming words.
- H. Produce rhyming words.
- I. Count syllables in spoken words.
- J. Blend and segment onsets and rimes of single-syllable spoken words.
- K. Blend and segment syllables in spoken words.
- L. Isolate initial sounds in consonant-vowel-consonant (CVC) words (not including blends).
- M. Isolate final sounds in consonant-vowel-consonant (CVC) words (not including blends).
- N. Add or substitute individual sounds (phonemes) in simple, one-syllable words to make new words.
- O. Recognize the primary sound(s) for each consonant.
- P. Produce the primary sound(s) for each consonant.
- Q. Identify the long and short vowel sounds in common spellings for the five major vowel sounds.
- R. Read common kindergarten high frequency words by sight.
- S. Identify the sound that differs between two similarly-spelled words.
- T. Participate in reading emergent-reader texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9304. Writing

- A. Write, draw, or dictate the topic being communicated about.
- B. Write, draw, or dictate the name of a book of interest.
- C. Produce a statement which states an opinion or preference about the topic or book of interest.
- D. With prompting and support, create an informative/explanatory permanent product (e.g., select/generate words to form a sentence or two) which names the topic they are communicating about and supplies some information about the topic.
- E. Describe information gained from a stimulus (e.g., text, event, photo, etc.).
- F. Generate story ideas in response to a stimulus (e.g., event, photo, text, daily writing log).
- G. Write, dictate, or draw about an event.
- H. Organize the details of an event in the order in which they occurred.
- I. With guidance and support from adults, use feedback to strengthen permanent products (e.g., add a drawing or detail).
- J. With guidance and support from adults, explore a variety of digital tools to produce and publish permanent products, including collaborating with peers.
- K. Participate in shared research and writing projects (e.g., explore a number of books by a favorite author and express opinions about them).
- L. With guidance and support from adults, recall information from experiences to answer a question.
- M. Identify various sources (e.g., word wall, book talks, visuals/images, Internet) that can be used to gather information or to answer a question (e.g., "How do we find out?").

N. Use provided illustrations or visual displays to gain information on a topic.

O. With guidance and support from adults, gather information (e.g., highlight in text, quote or paraphrase from discussion) from provided sources to answer a question.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9305. Speaking and Listening

A. Follow agreed-upon rules for discussions (e.g., listening to others and taking turns speaking about the topics and texts under discussion).

B. With prompting and support, confirm understanding of a text read aloud or information presented orally or through other media by requesting clarification if something is not understood.

C. Confirm understanding of a text read aloud or information presented orally or through other media by answering questions about key details.

D. Ask and answer questions in order to seek help, get information, or clarify something that is not understood.

E. Describe familiar people, places, things, and a single event or series of events.

F. With prompting and support, provide additional details to describe familiar people, places, things, and events.

G. Describe factual information about familiar people, places, things, and events.

H. Use drawings or visual displays to add detail to written products or oral discussions.

I. Share information from a selected permanent product or a favorite text.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter B. Grade 1

§9306. Reading Literature

A. Answer questions about key details in a story (e.g., who, what, when, where, why).

B. Ask questions about key details in a familiar story.

C. Retell a favorite text, including key details.

D. Use details to tell what happened in a story.

E. Retell the sequence of events in a story.

F. Answer questions about the beginning, middle, and end of a story.

G. Use signal words (e.g., first, next, after, before) and text details to describe events of a story.

H. Identify and/or describe the characters from a story.

I. Identify and/or describe a major event (e.g., problem or solution) from a story.

J. Answer questions regarding key events of stories.

K. Identify and/or describe a setting in a story.

L. Describe feelings of characters in a story.

M. Ask questions to help determine or clarify the meaning of words in a text.

N. Answer questions to help determine or clarify the meaning of words in a text.

O. Ask questions to help determine or clarify the meaning of phrases in a text.

P. Answer questions to help determine or clarify the meaning of phrases in a text.

Q. Read books to examine how certain genres are written.

R. Identify the purpose of storybooks and informational text.

S. Identify who is telling the story in a text.

T. Use text features to aid comprehension.

U. Explain a key illustration in the story.

V. Use illustrations and details in a story to describe its characters, setting, or events.

W. Compare and contrast (what is the same and what is different) the experiences of characters in stories.

X. Choose literary texts or poems to read and reread, listen to, or view for leisure purposes.

Y. Engage in group reading of stories or poems by sharing something learned or something enjoyed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9307. Reading Informational Text

A. Answer questions about key details in a text read, read aloud, or viewed.

B. Discuss key details and main topic of a preferred text.

C. Identify the main topic of an informational text.

D. Retell/identify key details in an informational text.

E. Describe the connection between two individuals, events, or pieces of information in a text.

F. Ask questions to help determine or clarify the meaning of words in a text.

G. Answer questions to help determine or clarify the meaning of words in a text.

H. Ask questions to help determine or clarify the meaning of phrases in a text.

I. Answer questions to help determine or clarify the meaning of phrases in a text.

J. Identify text features to aid comprehension.

K. Use text features to aid comprehension.

L. Identify and use various text features (e.g., bold text, titles) to locate key facts or information in a text.

M. Distinguish between information provided by pictures or other illustrations and information provided by the words in a text.

N. Use the photos, diagrams, or graphics and details in a text to describe or identify its key ideas.

O. Identify the facts and details an author gives to support points in a text.

P. Identify basic similarities in and differences between two texts on the same topic (e.g., in illustrations, descriptions, or procedures).

Q. Choose informational texts to read and reread, listen to, or view for leisure or informational purposes (e.g., to answer questions; understand the world around them).

R. Engage in group reading of informational text by sharing something learned or something enjoyed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9308. Reading Foundations

A. Recognize rhyming words.

B. Produce rhyming words.

C. Identify long or short vowel sounds in spoken single-syllable words.

D. Produce single-syllable words by blending sounds (phonemes), including consonant blends.

E. Isolate and/or produce initial in consonant-vowel-consonant (CVC) words.

F. Isolate and/or produce medial vowel sound in consonant-vowel-consonant (CVC) words.

G. Isolate and/or produce final sounds in consonant-vowel-consonant (CVC) words.

H. Segment spoken single-syllable words into their complete sequence of individual sounds (phonemes).

I. Recognize the sound(s) for each consonant.

J. Produce the sound(s) for each consonant.

K. Identify common consonant digraphs using their sound correspondence (e.g., write/state/select "ch" when spoken).

L. Decode regularly spelled CVC words.

M. Recognize silent "e" as the reason the vowel sound is a long vowel sound in a word.

N. Read common first grade high frequency words by sight.

O. Read or identify frequently occurring words with inflectional endings.

P. Recognize grade-appropriate irregularly-spelled words.

Q. Identify the sound that differs between two similarly spelled words.

R. Read grade-level text with accuracy, appropriate rate, and expression (when applicable) on successive readings.

S. Identify grade-level words with accuracy and appropriate rate on successive attempts.

T. Practice self-monitoring strategies to aid comprehension (e.g., reread, use visuals or cueing system, self-correct, ask questions, confirm predictions).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9309. Writing

A. Produce an opinion statement about a topic or book of interest and provide accurate information as a reason.

B. Organize an opinion piece starting with an opinion statement followed by a reason.

C. Use a description of or detail about familiar people, places, things, and events to support an opinion.

D. Create an opinion piece that provides a sense of closure.

E. Produce a simple statement that names a topic and supplies some facts about the topic.

F. When creating informative/explanatory permanent products, represent facts and descriptions through the use of illustrations and captions.

G. Provide a sense of closure to an informative/explanatory permanent product.

H. Provide a title that tells the central idea or focus.

I. Describe a single event or a series of events that includes details about what happened.

J. Describe a series of events in the order in which they occurred, and when appropriate, use signal words (e.g., first, then, next).

K. Create a narrative permanent product that provides a sense of closure.

L. With guidance and support from adults, use feedback to strengthen permanent products (e.g., add a drawing or detail, reorder events).

M. With guidance and support from adults, use a variety of digital tools (e.g., word processing, internet) to produce and publish permanent products, including collaborating with peers.

N. Participate in shared research and writing projects (e.g., drawings, visual displays, labels).

O. Generate ideas and or opinions when participating in shared writing projects.

P. With guidance and support from adults, recall information from experiences to answer a question.

Q. Identify various sources (e.g., word wall, book talks, visuals/images, Internet) that can be used to gather information or to answer questions (e.g., "How do we find out?").

R. Use illustrations and details in a text to obtain facts and compose information on a topic.

S. With guidance and support from adults, gather information (e.g., highlight in text, quote or paraphrase from discussion) from provided sources to answer a question.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9310. Speaking and Listening

A. Follow agreed-upon rules for discussions (e.g., listening to others with care, speaking one at a time about the topics and texts under discussion).

B. Build on others' talk in conversations by responding to the comments of others through multiple exchanges.

C. Ask questions to clear up any confusion about the topics or texts under discussion.

D. Engage in small or large group discussions by sharing one's own permanent product.

E. Engage in small or large group discussion of favorite texts or topic presented orally or through other media.

F. Answer questions about key details in a story (e.g., who, what, when, where, why).

G. Ask questions about key details in a familiar story.

H. Ask questions about information presented orally in order to clarify something that is not understood.

I. Retell a favorite text, including key details.

J. Describe people, places, things, and a single event or series of events with relevant details.

K. Describe factual information and ideas about familiar people, places, things, and events.

L. Describe subtopics of larger topics about familiar people, places, things, and events.

M. Use drawings or visual displays to add detail to permanent products.

N. Produce complete sentences (e.g., through dictation, writing, word array, picture) when appropriate to task and situation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9311. Language

- A. Produce uppercase and lowercase letters.
- B. Use singular and plural nouns with matching verbs in basic sentences.
- C. Use frequently occurring nouns when communicating.
- D. Use personal, possessive, and indefinite pronouns (e.g., I, me, my; they, them, their; anyone, everything) when communicating.
- E. Use verbs to convey a sense of past present or future when communicating.
- F. Use frequently occurring adjectives when communicating.
- G. Use frequently occurring conjunctions (e.g., and, but, or, so, because) when communicating.
- H. Use frequently occurring prepositions (e.g., on, in) when communicating.
- I. Produce and expand complete simple and compound declarative, interrogative, imperative, and exclamatory sentences in response to prompts.
- J. Capitalize the first word in sentence, the pronoun "I", dates, and names of people.
- K. Use end punctuation for sentences.
- L. Produce a letter or letters for consonant and vowel sounds (phonemes).
- M. Use context within a sentence as a clue to the meaning of a word or phrase.
- N. Use frequently occurring affixes as a clue to the meaning of the word.
- O. With guidance and support from adults, identify the category for a given word (e.g., a duck is a bird).
- P. With guidance and support from adults, sort labeled objects into categories (e.g., shapes, food) to gain a sense of the concepts the categories represent.
- Q. With guidance and support from adults, sort words or picture cards with words into categories (e.g., shapes, food) to gain a sense of the concepts the categories represent.
- R. With guidance and support from adults, use newly acquired words in real-life context.
- S. Use words and phrases acquired through conversations, reading and being read to, and responding to texts, or when adding captions or simple sentences to illustrations or drawings, including using frequently occurring conjunctions to signal simple relationships (e.g., because).
- T. Use frequently occurring conjunctions to signal simple relationships.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter C. Grade 2

§9312. Reading Literature

- A. Answer who, what, where, when, why, and how questions from stories.
- B. Use details to recount stories, including fables and folktales from diverse cultures.
- C. Retell a favorite text, including key details.
- D. Describe or select a description of a major event or problem in a story.
- E. Describe or select a description of how characters respond to major events or problems in a story.

F. Describe or select the description of what happened (or key events from) in the beginning of the story.

G. Describe or select the description of what happened (or key events from) in the end of the story.

H. Use signal words (e.g., then, while, because, when, after, before, later) to describe event sequence, actions, and interactions in a story.

I. Read books to examine how to write certain genres.

J. Identify different points of view of different characters in a story. (e.g., "Who thinks it is a bad idea to play a joke on a friend?")

K. Use illustrations to answer questions about the characters, key events, the problem or solution in a story.

L. Use information gained from illustrations to describe elements within the setting.

M. Use information gained from illustrations to describe a character's feelings or what a character wanted.

N. Use information gained from illustrations to describe a relationship between characters (e.g., mother/daughter, love/hate).

O. Use text features to aid comprehension.

P. Compare and contrast illustrations or visuals between two versions of the same story (e.g., Cinderella stories) by different authors or from different cultures.

Q. Compare and contrast characters or events between two versions of the same story by different authors or from different cultures.

R. Choose literary texts or poems to read and reread, listen to, or view for leisure purposes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9313. Reading Informational Text

A. Answer who, what, where, when, why, and how questions from informational text.

B. Identify the main topic of a multi-paragraph informational text.

C. Identify the focus of a paragraph and the details that support the focus in an informational text.

D. Identify the sequence of events in an informational text.

E. Identify the steps in a process in an informational text.

F. Identify the cause and effect relationships in an informational text.

G. Determine the meaning of words and phrases in a text relevant to a grade 2 topic or subject area.

H. Identify and use text features (e.g., title, bold print, illustrations, glossaries) to aid comprehension (e.g., locate key facts or information in a text efficiently).

I. Identify the main purpose of a text, including what question the author is answering, explaining, or describing.

J. Explain or identify what specific images (e.g., a diagram showing how a machine works) teach or inform the reader.

K. Use the illustrations and details in a text to describe or identify its key ideas.

L. Identify the facts and details an author gives to support points in a text.

M. Describe how facts and details support specific points the author makes in a text.

N. Compare and contrast the most important points presented by two texts on the same topic.

O. Choose informational texts to read and reread, listen to, or view for leisure or informational purposes (e.g., to answer questions; understand the world around them).

P. Discuss key details and main topic of a preferred text.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9314. Reading Foundations

A. Answer who, what, where, when, why, and how questions from informational text. LAC.RF.2.2a Produce single-syllable words by blending sounds (phonemes), including consonant blends.

B. Isolate and/or produce initial, medial vowel, and/or final sounds in consonant-vowel-consonant (CVC) words.

C. Segment spoken single-syllable words into their complete sequence of individual sounds (phonemes).

D. Identify long and short vowels in regularly spelled one-syllable words.

E. Decode regularly spelled one-syllable words with long vowels.

F. Decode regularly spelled two-syllable words with long vowels.

G. Decode words with common prefixes and suffixes.

H. Recognize and/or read grade appropriate irregularly spelled words.

I. Read or identify frequently occurring root words with and without inflectional endings.

J. Read grade-level text with accuracy, appropriate rate, and expression (when applicable) on successive readings.

K. Identify grade-level words with accuracy and on successive attempts.

L. Practice self-monitoring strategies to aid comprehension (e.g., reread, use visuals or cueing system, self-correct, ask questions, confirm predictions).

M. Use context to confirm or self-correct word recognition.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9315. Writing

A. Produce an opinion statement about a topic or book of interest, supply reasons that support the opinion, and provide a concluding statement.

B. Connect reasons to the opinion using linking words.

C. Organize an opinion piece starting with an opinion statement followed by related reasons and ending with a concluding statement.

D. Produce a statement that names a topic and supplies some facts about the topic.

E. When creating information/explanatory permanent products represent facts and descriptions through the use of illustrations and captions.

F. Order factual statements to describe a sequence of events or explain a procedure.

G. Provide a concluding statement or section to an informative/explanatory permanent product.

H. Provide a title that tells the central idea or focus.

I. Describe a single event or series of events by including actions, thoughts, or feelings about who, what, and why.

J. Describe a series of events in the order in which they occurred, and when appropriate, use signal words (e.g., first, then, next).

K. Create a narrative permanent product that provides a sense of closure.

L. With guidance and support from adults, use feedback to strengthen permanent products (e.g., add more details or description).

M. With guidance and support from adults, use a variety of digital tools (e.g., word processing, Internet) to produce and publish permanent products, including collaborating with peers.

N. Participate in shared research and writing projects (e.g., read a number of books on a single topic to produce a report; record science observations).

O. Generate ideas and or opinions when participating in shared writing projects.

P. Recall information from experiences to answer a question.

Q. With guidance and support from adults, gather information (e.g., highlight in text, quote or paraphrase from discussion) from provided sources to answer a question.

R. Use simple note-taking strategies (e.g., double entry journal, Venn diagram, T-chart, discussion web) to record reasons for or against a topic.

S. Create a permanent product (e.g., T-chart, word sort) to distinguish facts and opinion.

T. Use simple note-taking strategies or organizers (e.g., numbering, t-charts, graphic organizers) to gather information from provided sources.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9316. Speaking and Listening

A. Follow agreed-upon rules for discussions (e.g., gaining the floor in respectful ways, listening to others with care, speaking one at a time about the topics and text under discussion).

B. Build on others' talk in conversations by linking their comments to the remarks of others.

C. Engage in small or large group discussions by sharing one's own permanent product.

D. Engage in small or large group discussion of favorite texts presented orally or through other media.

E. Recount or describe key ideas or details from literary text read aloud or information presented orally or through other media.

F. Ask questions about information presented orally in order to clarify something that is not understood.

G. Share a story or recount an experience with appropriate facts and relevant, descriptive details.

H. Describe factual information and ideas about people, places, things, and a single event or series of events.

I. Provide at least two facts for each subtopic identified for a larger topic.

J. Describe a single event or a series of events by including actions, thoughts, or feelings.

K. Use drawings or other visual displays to clarify ideas, thoughts, and feelings.

L. Produce complete sentences (e.g., through dictation, writing, word array, picture) when appropriate to task and situation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9317. Language

A. Use collective and irregular plural nouns when communicating.

B. Use past tense irregular verbs when communicating.

C. Use reflexive pronouns (e.g., myself, ourselves) when communicating.

D. Use adjectives and adverbs when communicating.

E. Produce and expand upon simple or compound sentences.

F. Capitalize dates, names of people, holidays, product names, and geographic names.

G. Use conventional spelling for words with common spelling patterns.

H. Use sentence context as a clue to the meaning of a word or phrase.

I. Determine the meaning of a new word formed when a known prefix is added to the known word or root.

J. Use a known root word as a clue to the meaning of an unknown word with the same root.

K. Use knowledge of the meaning of individual words to predict the meaning of compound words.

L. Use a glossary or beginning dictionary to determine the meaning of a word.

M. Use newly acquired words in real-life context.

N. Distinguish shades of meaning among related verbs and adjectives by defining them or acting out their meaning.

O. Use words and phrases acquired through conversations, reading and being read to, and responding to texts, including using adjectives and adverbs to describe (e.g., When other kids are happy, that makes me happy).

P. Identify connections with previously understood words to acquire the meaning of a new word (e.g., weeping is like crying).

Q. Use newly acquired words in real-life context.

R. Use adjectives to describe nouns.

S. Use adverbs to describe verbs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter D. Grade 3

§9318. Reading Literature

A. Answer questions related to the relationship between characters, setting, events, or conflicts (e.g., characters and events, characters and conflicts, setting and conflicts).

B. Answer questions (literal and inferential) and refer to text to support your answer.

C. Support inferences, opinions, and conclusions using evidence from the text including illustrations.

D. Identify the central message (theme), lesson, or moral within a story, folktale, or fable from diverse cultures.

E. Use details to recount stories, including fables and folktales from diverse cultures.

F. Use information in the text to determine and explain a lesson learned by a character or theme within the story.

G. Explain how characters' actions contribute to the sequence of events/plot.

H. Describe a character's traits in a story using details from the text and illustrations.

I. Explain a character's motivation in a story using the character's thoughts, words, and actions as evidence from the text.

J. Explain a character's feelings in a story using the character's thoughts, words, and actions as evidence from the text.

K. Describe how a character changed in a story (e.g., different words, thoughts, feelings, actions).

L. Analyze how a character's point of view influences a conflict within a text.

M. Determine the meaning of literal and nonliteral words and phrases as they are used in a text.

N. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 3 topic or subject area.

O. Identify how the structure of a poem is different than a story (e.g., rhyme shorter than stories; stanza instead of paragraph).

P. Identify how the structure of a play is different than the structure of a story (e.g., text includes props; dialogue without quotation marks acts/scenes instead of chapter).

Q. Identify narrator or character's point of view.

R. Identify own point of view.

S. Distinguish their own point of view from that of the narrator or those of the characters.

T. Support inferences, opinions, and conclusions using evidence from the text including illustrations.

U. Use descriptive words and illustrations/visuals from a story, read or viewed, to explain the mood in a given part of the story.

V. Compare two or more texts or adapted texts on the same topic or by the same author.

W. Read or be read to and recount self-selected literary texts, such as stories, fables, folktales, myths, or adapted texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9319. Reading Informational Text

A. Answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.

B. Identify supporting details of an informational text read, read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

C. Determine the main idea of text, read aloud, or information presented in diverse media and formats, including visually, quantitatively, and orally.

D. Determine the main idea of a text; recount the key details and explain how they support the main idea.

E. Identify facts that an author uses to support a specific point or opinion.

F. Identify the purpose of a variety of text features.

G. Use text features (keywords, glossary) to locate information relevant to a given topic or question.

H. Use tools (e.g., sidebars, icons, glossary) to locate information relevant to a given topic.

- I. Identify the author's purpose in an informational text.
- J. Identify own point of view about a topic.
- K. Compare own point of view to that of the author.
- L. Use illustrations (e.g., maps, photographs) in informational texts to answer questions.
- M. Identify information learned from illustrations and information learned from the words in an informational text.
- N. Use information gained from illustrations (e.g., maps, photographs) and the words in a text to demonstrate understanding of the text (e.g., where, when, why, and how key events occur).
- O. Within informational texts, locate or identify evidence in the text or graphics to support the central ideas.
- P. Identify signal words that help determine what the text structure is in an informational text.
- Q. Describe the connection between sentences and paragraphs in a text.
- R. Compare two or more texts on the same topic or by the same author.
- S. When researching a topic, compare and contrast the most important points and key details presented in two informational texts on the same topic.
- T. Read or be read to and recount self-selected informational texts or adapted texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9320. Reading Foundations

- A. Identify the meaning of most common prefixes.
- B. Identify the meaning of most common suffixes.
- C. Decode regularly spelled one-syllable words with long vowels.
- D. Decode regularly spelled two-syllable words with long vowels.
- E. Decode multi-syllable words.
- F. Recognize and/or read grade appropriate irregularly spelled words.
- G. Read text (including prose and poetry) with accuracy, appropriate rate, and expression (when applicable) on successive readings.
- H. Identify grade-level words with accuracy.
- I. Practice self-monitoring strategies to aid comprehension (e.g., reread, use visuals or cueing system, self-correct, ask questions, confirm predictions).
- J. Use context to confirm or self-correct word recognition.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9321. Writing

- A. Produce an opinion piece which introduces the topic or text they are communicating about and states an opinion.
- B. Provide reasons that support the opinion.
- C. Use linking words and phrases that connect the opinion and reasons.
- D. Provide a concluding statement or section.
- E. Produce an informative/explanatory permanent product which introduces a topic and groups related information together.

F. Develop the topic (i.e., offer additional information which supports the topic) by using facts, definitions, and details.

G. Include illustrations to enhance clarity and meaning.

H. Use linking words and phrases (e.g., also, another, and, more, but) to connect ideas within categories of information.

I. Provide a concluding statement or section.

J. Produce a narrative permanent product which establishes a situation by setting up the context for the story and introducing a narrator and/or characters.

K. Sequence events that unfold naturally.

L. When appropriate, use dialogue and descriptions of actions, thoughts, and feelings to develop a story.

M. Use temporal words and phrases to signal event order.

N. Provide a sense of closure.

O. With guidance and support from adults, produce a permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to inform or entertain), and audience (e.g., reader).

P. With guidance and support from peers and adults, develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft).

Q. With guidance and support from peers and adults, strengthen permanent products by revising (e.g., review a permanent product, strengthen a story by adding a description or dialogue).

R. With guidance and support from peers and adults, edit permanent products for clarity and meaning.

S. With guidance and support from adults, use technology to produce and publish permanent products (e.g., use the Internet to gather information; use word processing to generate and collaborate on permanent products).

T. Follow steps to complete a short research project (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

U. Recall information from experiences to use in creating permanent products.

V. Gather information and facts (e.g., highlight in text, quote or paraphrase from discussion) from print (e.g., text read aloud, printed image) and/or digital sources (e.g., video, audio, images/graphics).

W. Use text features and search tools (e.g., keywords, sidebars, hyperlinks) to locate information relevant to a given topic with the purpose of creating a permanent product (e.g., select/generate responses to form a paragraph or essay).

X. Locate important points on a single topic from two informational texts or sources.

Y. Identify key details in an informational text.

Z. Take brief notes (e.g., graphic organizers, notes, labeling, listing) on sources.

AA. Sort evidence collected from print and/or digital sources into provided categories.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9322. Speaking and Listening

A. Provide evidence of being prepared for discussions on a topic or text through appropriate statements made during discussion.

B. Ask questions to check understanding of information presented in collaborative discussions.

C. Link personal ideas and comments to the ideas shared by others in collaborative discussions.

D. Express ideas and understanding in light of collaborative discussions.

E. Determine the central message, lesson, moral, and key details of a text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

F. Determine the main idea of text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

G. Identify supporting details of an informational text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

H. Ask and answer questions about information from a speaker, offering appropriate elaboration and detail.

I. Report on a topic, tell a story or recount an experience with appropriate facts and relevant, descriptive details.

J. Add audio recordings and visual displays when appropriate to emphasize or enhance certain facts or details.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9323. Language

A. Identify nouns (regular, irregular, abstract), verbs (regular, irregular, simple tenses), adjectives, and/or adverbs within sentences.

B. Use nouns (regular, irregular, abstract), verbs (regular, irregular, simple tenses), and adjectives and/or adverbs when communicating.

C. Use correct subject-verb and pronoun-antecedent agreement when communicating.

D. Produce and expand upon simple and compound sentences.

E. Capitalize words in holidays, product names, geographic names, and appropriate words in titles.

F. Use commas accurately in addresses or dialogue when communicating.

G. Use quotation marks when communicating.

H. Use conventional spelling and spelling patterns (e.g., word families, syllable patterns, ending rules) when communicating high frequency and/or previously learned words.

I. Choose words and phrases for appropriate effect (e.g., to inform) within writing.

J. Use sentence context as a clue to the meaning of a new word, phrase, or multiple meaning word.

K. Determine the meaning of the new word formed when a known affix is added to a known word.

L. Use a known root word as a clue to the meaning of an unknown word with the same root.

M. Use a glossary or dictionary to determine the meaning of a word.

N. Distinguish literal from non-literal meanings of words and phrases in context.

O. Use newly acquired words in real-life context.

P. Identify and sort shades of meaning words from general to specific or lesser to specific.

Q. Use newly acquired conversational and general academic words and phrases accurately when communicating.

R. Use newly acquired domain-specific words and phrases accurately when communicating.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter E. Grade 4

§9324. Reading Literature

A. Refer to details and examples in a text when explaining what the text says explicitly.

B. Refer to details and examples in a text when drawing basic inferences about a story, poem, or drama.

C. Use details and examples in a text when explaining the author's purpose (e.g., what did the author use to scare you, surprise you?).

D. Use evidence from the text to summarize a story, poem or drama.

E. Determine the theme of a story, drama, or poem; refer to text to support answer.

F. Answer questions related to the relationship between characters, setting, events, or conflicts (e.g., characters and events, characters and conflicts, setting and conflicts).

G. Describe character traits (e.g., actions, deeds, dialogue, description, motivation, interactions); use details from text to support description.

H. Describe character motivation (e.g., actions, thoughts, words); use details from text to support description.

I. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 4 topic or subject area.

J. Identify how the structure of a poem is different than a story (e.g., identify rhyme, shorter than stories; stanza instead of paragraph).

K. Identify how the structure of a play is different than the structure of a story (e.g., text includes props; dialogue without quotation marks acts/scenes instead of chapter).

L. Determine the author's point of view (first- or third-person).

M. Compare the point of view from which different stories are narrated, including the difference between first- and third-person narrations.

N. Use evidence from both the text version and oral or visual presentation of the same text to support inferences, opinions, and conclusions.

O. Make connections between the text of a story and the visual representations, refer back to text/illustrations to support answer.

P. Make connections between the text of a play and the oral representations, refer back to text/illustrations to support answer.

Q. Compare the treatment of similar themes and topics (e.g., opposition of good and evil) in stories, myths, and traditional literature from different cultures.

R. Compare the treatment of patterns of events (e.g., the quest) in stories, myths, and traditional literature from different cultures.

S. Read or be read to and recount self-selected literary texts, such as stories, dramas, poetry, or adapted texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9325. Reading Informational Text

A. Refer to details and examples in a text when explaining what the text says explicitly.

B. Refer to details and examples in a text when drawing basic inferences from an informational text.

C. Determine the main idea of an informational text.

D. Identify supporting details of an informational text.

E. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 4 topic or subject area.

F. Identify signal words that help determine what the text structure is in an informational text (e.g., description, problem/solution, time/order, compare/contrast, cause/effect, directions).

G. Describe the overall structure (e.g., chronology, comparison, cause/effect, problem/solution) of events, ideas, concepts, or information in a text or part of a text.

H. Organize information presented in an informational text to demonstrate the text structure.

I. Use text features (keywords, glossary) to locate information relevant to a given topic or question.

J. Use tools (e.g., sidebars, icons, glossary) to locate information relevant to a given topic.

K. Use search tools or text features as a means of locating relevant information.

L. Determine if information in a text is firsthand or secondhand.

M. Compare and contrast a firsthand and secondhand account of the same event or topic.

N. Use information presented visually, orally, or quantitatively (e.g., in charts, graphs, diagrams, time lines, animations, or interactive elements on Web pages) to answer questions.

O. Explain how the information presented visually, orally, or quantitatively contributes to the understanding of the text in which it appears.

P. Interpret information presented visually, orally, or quantitatively (e.g., in charts, graphs, diagrams, time lines, animations, or interactive elements on Web pages) and explain how the information contributes to an understanding of the text in which it appears.

Q. Compare and contrast how different authors use reasons and evidence to support the same topics across texts.

R. Identify reasons that the author uses to support ideas in an informational text.

S. Identify facts that an author uses to support a specific point or opinion.

T. Report out about two or more texts on the same self-selected topic.

U. Identify the most important information about a topic gathered from two texts on the same topic in order to write or speak about the subject knowledgeably.

V. Read or be read to and recount self-selected informational texts or adapted texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9326. Reading Foundations

A. Use letter-sound correspondences, syllabication patterns, and morphology (e.g., affixes) to identify and/or read multisyllabic words.

B. Identify grade level words with accuracy and on successive attempts.

C. Recognize and/or read grade appropriate irregularly spelled words.

D. Read text (including prose and poetry) with accuracy, appropriate rate, and expression (when applicable) on successive readings.

E. Practice self-monitoring strategies to aid comprehension (e.g., reread, use visuals or cueing system, self-correct, ask questions, confirm predictions).

F. Use context to confirm or self-correct word recognition.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9327. Writing

A. Produce an opinion piece which introduces the topic or text, states an opinion, and groups related ideas together.

B. Provide reasons which include facts and details that support the stated opinion.

C. Link opinion and reasons using words and phrases (e.g., for instance, in order to, in addition).

D. Provide a concluding statement or section related to the opinion presented.

E. Produce an informative/explanatory permanent product which introduces a topic clearly and groups related information.

F. Develop the topic (i.e., add additional information related to the topic) with relevant facts, definitions, concrete details, quotations, or other information and examples related to the topic.

G. Include formatting (e.g., headings), illustrations, and multimedia when appropriate to convey information about the topic.

H. Link ideas within categories of information using words and phrases (e.g., another, for example, also, because).

I. Use precise language and domain-specific vocabulary to inform about or explain the topic.

J. Provide a concluding statement or section related to the information presented.

K. Produce a narrative permanent product which orients the reader by setting up the context for the story and introducing a narrator and/or characters.

L. Sequence events that unfold naturally.

M. When appropriate, use dialogue and description to develop experiences and events or show the responses of characters to situations.

N. Use a variety of transitional words and phrases to manage the sequence of events.

O. Use concrete words and phrases and sensory details to convey experiences and events.

P. Provide a conclusion (e.g., concluding sentence, paragraph, or extended ending) that follows from the narrated experiences or events.

Q. Produce a clear coherent permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to inform or entertain), and audience (e.g., reader).

R. With guidance and support from peers and adults, develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft).

S. With guidance and support from peers and adults, strengthen permanent products by revising (e.g., review a permanent product, strengthen an informative permanent product by adding a concrete detail).

T. With guidance and support from peers and adults, edit permanent products for clarity and meaning.

U. With guidance and support from adults, use technology to produce and publish permanent products (e.g., use the Internet to gather information; use word processing to generate and collaborate on permanent products).

V. Follow steps to complete a short research project (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

W. Recall relevant information from experiences to use in creating permanent products.

X. Gather relevant information (e.g., highlight in text, quote or paraphrase from text or discussion) from print (e.g., text read aloud, printed image) and/or digital sources (e.g., video, audio, images/graphics).

Y. Identify key details from an informational text.

Z. Take brief notes and categorize information (e.g., graphic organizers, notes, labeling, listing) from sources into provided categories.

AA. Provide a list of sources that contributed to the creation of a permanent product.

BB. Provide evidence from texts when producing permanent products.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9328. Speaking and Listening

A. Provide evidence of being prepared for discussions on a topic or text through appropriate statements made during discussion.

B. Ask questions to check understanding of information presented in collaborative discussions.

C. Make appropriate comments that contribute to a collaborative discussion.

D. Review the key ideas expressed within a collaborative discussion.

E. Paraphrase portions of a text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

F. Identify the reasons and evidence a speaker provides to support particular points.

G. Report on a topic or text, tell a story, or recount an experience in an organized manner, using appropriate facts and relevant, descriptive details.

H. Add audio recordings and visual displays to presentations when appropriate to enhance the development of main ideas or themes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9329. Language

A. Use relative pronouns and relative adverbs when communicating.

B. Use prepositional phrases when communicating.

C. Produce complete sentences, recognizing and correcting inappropriate fragments and run-ons.

D. Use correct capitalization when communicating.

E. Use commas and quotation marks when communicating.

F. Spell grade-appropriate words correctly in writing, consulting references as needed.

G. Choose words and phrases for appropriate effect (e.g., to inform) when communicating.

H. Use context to determine the meaning of unknown or multiple meaning words, or words showing shades of meaning.

I. Use common grade-appropriate roots and affixes as clues to the meaning of a word.

J. Use a glossary, dictionary, or thesaurus to determine the meaning of a word.

K. Identify simple similes in context.

L. Identify simple metaphors in context.

M. Relate words to their opposites (antonyms).

N. Relate words to words with similar but not identical meanings (synonyms).

O. Identify the meaning of common idioms.

P. Use grade-appropriate general academic and domain-specific words and phrases accurately when communicating.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter F. Grade 5

§9330. Reading Literature

A. Refer to details and examples in a text when explaining what the text says explicitly.

B. Refer to specific text evidence to support inferences, interpretations, or conclusions.

C. Summarize a portion of text such as a paragraph or a chapter.

D. Summarize a text from beginning to end in a few sentences.

E. Determine the theme of a story, drama, or poem including how characters in a story or drama respond to challenges or how the speaker in a poem reflects upon a topic.

F. Compare characters, settings, events within a story; provide or identify specific details in the text to support the comparison.

G. Compare and contrast two or more characters, settings, or events in a story or drama, drawing on specific details in the text (e.g., how characters interact).

H. Determine the meaning of words and phrases as they are used in a text including figurative language such as metaphors and similes.

I. Use signal words (e.g., meanwhile, unlike, next) to identify common types of text structure (e.g., sequence, compare/contrast, cause/effect, description) within a text.

J. Explain how a series of chapters fits together to provide the overall structure of a particular text.

K. Describe how a narrator's or speaker's point of view influences how events are described.

L. Explain how the description of characters, setting, or events might change if the person telling the story changed.

M. Interpret the meaning of metaphors and similes to help explain the setting within a text.

N. Interpret the meaning of metaphors and similes to help determine the mood within a text.

O. Describe how visual and multimedia elements contribute to the meaning or tone of a text (e.g., graphic novel, multimedia presentation of fiction, folktale, myth, poem).

P. Compare and contrast stories in the same genre (e.g., mysteries and adventure stories) on their approaches to similar themes and topics.

Q. Read or be read to a variety of literary texts or adapted texts, including graphic novels, poetry, and fiction.

R. Use a variety of strategies to derive meaning from a variety of print and non-print literary texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9331. Reading Informational Text

A. Quote accurately from a text when explaining what the text says explicitly.

B. Quote accurately from a text to support inferences.

C. Determine the main idea, and identify key details to support the main idea.

D. Summarize the text or a portion of the text read, read aloud, or presented in diverse media.

E. Explain/identify the relationship between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text.

F. Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information in the text.

G. Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information across texts.

H. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 5 topic or subject area.

I. Use signal words as a means of locating information (e.g., knowing that because or as a result of may help link a cause to a result).

J. Use signal words to identify common types of text structures.

K. Compare and contrast the overall structure (e.g., chronology, comparison, cause/effect, problem/solution) of events, ideas, concepts, or information in two or more texts.

L. Note important similarities and differences in the point of view of multiple accounts of the same event or topic.

M. Draw on information from multiple print or digital sources, demonstrating the ability to locate an answer to a question or to solve a problem.

N. Refer to multiple print or digital sources as support for inferences (e.g., "How did you know?").

O. Explain how an author uses reasons and evidence to support particular points in a text.

P. Identify reasons and evidence that support an author's point(s) in a text.

Q. Identify the author's stated thesis/claim/opinion.

R. Identify evidence the author uses to support stated thesis/claim/opinion.

S. Identify key details from multiple sources on the same topic (e.g., "What are the important things that you learned?").

T. Integrate information on a topic from multiple sources to answer a question or support a focus or opinion.

U. Read or be read to a variety of informational texts or adapted texts.

V. Use a variety of strategies to derive meaning from a variety of print and non-print informational texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9332. Reading Foundations

A. Use morphemes (e.g., roots and affixes) to decode unfamiliar multisyllabic words in and out of context.

B. Use context to confirm or self-correct word recognition.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9333. Writing

A. Produce an opinion piece which has an introduction that states an opinion and has an organizational structure in which ideas are logically grouped to support the writer's opinion.

B. Provide relevant facts to support the reasons and stated opinion.

C. Link opinion and reasons using words and phrases.

D. Provide a concluding statement or section related to the opinion presented.

E. Produce an informative/explanatory permanent product which has an introduction that includes context/background information on a topic and establishes a central idea or focus about the topic.

F. Group related information logically.

G. Develop the topic (i.e., add additional information related to the topic) with facts, definitions, concrete details, quotations, or other information and examples.

H. Include formatting (e.g., headings), illustrations, and multimedia when appropriate to convey information about the topic.

I. Use transitional words and phrases to connect ideas.

J. Use precise language and domain-specific vocabulary to inform about or explain the topic.

K. Provide a concluding statement or section related to the information presented.

L. Produce a narrative permanent product which orients the reader by establishing a situation and introducing a narrator and/or characters.

M. Organize an event so that it unfolds naturally.

N. When appropriate use narrative techniques, such as dialogue and description, to develop experiences and events or show the responses of characters to situations.

O. Use transitional words and phrases to manage the sequence of events.

P. Use concrete words and phrases and sensory details to convey experiences and events precisely.

Q. Provide a conclusion (e.g., concluding sentence, paragraph, or extended ending) that follows from the narrated experiences or events.

R. Produce a clear, coherent permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to inform or entertain), and audience (e.g., reader).

S. With guidance and support from peers and adults, develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft).

T. With guidance and support from peers and adults, strengthen permanent products by revising and editing (e.g., review a permanent product, strengthen an opinion piece by adding another reason, fix incorrect spelling).

U. Use technology to produce and publish permanent products (e.g., use the Internet to gather information; use word processing to generate and collaborate on writing).

V. Follow steps to complete a short research project (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

W. Recall relevant information from experiences to use in permanent products.

X. Gather information (e.g., highlight in text, quote or paraphrase from a source) from print (e.g., text read aloud, printed image) and/or digital sources (e.g., video, audio, images/graphics) relevant to a topic.

Y. Sort evidence collected from print and/or digital sources into provided categories.

Z. Provide a list of sources that contributed to the creation of a permanent product.

AA. Provide evidence from texts when producing permanent products.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9334. Speaking and Listening

A. Make appropriate comments that contribute to a collaborative discussion.

B. Review the key ideas expressed within a collaborative discussion.

C. Determine the narrative point of view of a text read, read aloud, or viewed.

D. Summarize the text or a portion of the text read, read aloud, or presented in diverse media.

E. Identify a speaker's points or claims.

F. Summarize the points a speaker makes.

G. Identify reasons and evidence that a speaker provides to support points or claims.

H. Explain how at least one claim in a discussion is supported by reasons and evidence.

I. Report on a topic, story or claim using a logical sequence of ideas, appropriate facts, and relevant and descriptive details.

J. Elaborate on each fact or opinion given in support of a claim with relevant details.

K. Include multimedia components (e.g., graphics, sound) and visual displays in presentation when appropriate to enhance the development of topic.

L. Use captioned pictures, labeled diagrams, tables, or other visual displays in presentations when appropriate to support the topic or theme.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9335. Language

A. Use appropriate verb tense to convey times, sequence, state, and condition.

B. Recognize and correct inappropriate shifts in verb tense.

C. Identify and use conjunctions, prepositions, and interjections when communicating.

D. Produce simple, compound, and complex sentences in writing.

E. Use punctuation to separate items in a series.

F. Use commas accurately when communicating.

G. Spell words correctly when communicating, consulting references as needed.

H. Expand, combine, and reduce sentences for meaning, reader interest, and style when communicating.

I. Use context to determine the meaning of unknown or multiple meaning words.

J. Use common grade-appropriate roots and affixes as clues to the meaning of a word.

K. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the pronunciation of a word.

L. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the meaning of a word.

M. Identify the denotation for a known word.

N. Determine the meaning of words and phrases as they are used in a text including figurative language such as metaphors and similes.

O. Use figurative language in context, including similes and metaphors.

P. Identify the meaning of common idioms or proverbs.

Q. Use the relationship between particular words (e.g., synonyms, antonyms, homographs) in writing to promote understanding of each of the words.

R. Use grade-appropriate general academic and domain-specific words and phrases accurately.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter G. Grade 6

§9336. Reading Literature

A. Refer to details and examples in a text when explaining what the text says explicitly.

B. Use specific details from the text (e.g., words, interactions, thoughts, motivations) to support inferences or conclusions about characters including how they change during the course of the story.

C. Use the specific details from the text to support inferences and explanations about plot development.

D. Select key details about a character and relate those details to a theme within the text.

E. Determine the theme(s) of a story, drama, or poem including how it is conveyed through particular details.

F. Summarize a text from beginning to end in a few sentences without including personal opinions.

G. Describe how the plot unfolds in a story.

H. Analyze a character's interactions throughout a story as they relate to conflict and resolution.

I. Determine the meaning of words and phrases as they are used in a text including figurative (i.e., metaphors, similes, and idioms) and connotative meanings.

J. Analyze how a particular sentence, chapter, scene, or stanza fits into the overall structure of a text and contributes to the development of the theme, setting, or plot.

K. Determine the narrative point of view.

L. Identify and describe how the narrative point of view influences the reader's interpretation.

M. Explain how an author develops the point of view of the narrator or speaker in a text.

N. Compare the experience of reading a story or drama to listening to or viewing an audio, video, or live version of the text.

O. Compare texts from different genres that have a similar theme or address the same topic.

P. Read or be read to a variety of literary texts or adapted texts, including historical novels, fantasy stories and novels, poetry, and fiction.

Q. Use a variety of strategies to derive meaning from a variety of print and non-print literary texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9337. Reading Informational Text

A. Use textual evidence to support inferences.

B. Provide a summary of the text distinct from personal opinions or judgments.

C. Identify key individuals, events, or ideas in a text.

D. Determine how key individuals, events, or ideas are introduced in a text.

E. Determine how key individuals, events, or ideas are illustrated in a text.

F. Determine how key individuals, events, or ideas are elaborated or expanded on in a text.

G. Determine the meaning of words and phrases as they are used in a text including figurative (e.g., metaphors, similes, and idioms) and connotative meanings.

H. Use signal words as a means of locating information (e.g., knowing that because or as a result of may help link a cause to a result).

I. Determine an author's point of view or purpose in a text and explain how it is conveyed.

J. Identify what is learned from different media or formats compared to what is learned via written words or spoken words.

K. Summarize information gained from a variety of sources including media or texts.

L. Identify relevant details from several texts on the same topic (e.g., "What are the important things that you learned?").

M. Identify an argument or claim that the author makes.

N. Evaluate the claim or argument; determine if it is supported by evidence.

O. Distinguish claims or arguments from those that are supported by evidence from those that are not.

P. Compare and contrast one author's presentation of events with that of another (e.g., a memoir written by and a biography on the same person).

Q. Read or be read to a variety of informational texts or adapted texts.

R. Use a variety of strategies to derive meaning from a variety of print and non-print informational texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9338. Writing

A. Produce a persuasive permanent product which has an introduction that introduces a claim.

B. Create an organizational structure in which ideas are logically grouped to support the claim.

C. Support the claim with clear reasons and relevant evidence from credible sources.

D. Use words, phrases, and clauses to link the claim and reasons.

E. Provide a concluding statement or section that follows the argument presented.

F. Distinguish claims presented orally or in writing that are supported by reasons and claims that are not.

G. Produce an informative/explanatory permanent product which has an introduction that includes context/background information on a topic and establishes a central idea or focus about the topic.

H. Organize ideas, concepts, and information (e.g., using definition, classification, comparison/contrast, cause/effect).

I. Develop the topic (i.e., add additional information related to the topic) with relevant facts, definitions, concrete details, quotations, or other information and examples.

J. Include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to promote reading understanding.

K. Use transitional words, phrases, and clauses that connect ideas.

L. Use precise language and domain-specific vocabulary to inform about or explain the topic.

M. Maintain a consistent style and voice.

N. Provide a concluding statement or section that follows from the information presented.

O. Produce a narrative permanent product which engages and orients the reader by establishing a context and introducing a narrator and/or characters.

P. Organize events so they unfold naturally.

Q. When appropriate, use narrative techniques, such as dialogue, pacing, and description, to develop experiences, events, and/or characters.

R. Use a variety of transition words, phrases, and clauses to convey sequence and signal shifts from one time frame or setting to another.

S. Use precise words and phrases, relevant descriptive details, and sensory language to convey experiences and events.

T. Provide a conclusion that follows from the narrated experiences or events.

U. Use figurative language appropriately, including similes and metaphors.

V. Produce a clear, coherent permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to inform or entertain), and audience (e.g., reader).

W. With guidance and support from peers and adults, develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft).

X. With guidance and support from peers and adults, strengthen writing by revising and editing (e.g., review a permanent product, strengthen an informative/explanatory permanent product by adding transitional phrases, fix incorrect verb tense).

Y. Use technology to produce and publish permanent products (e.g., use the Internet to gather information; use word processing to generate and collaborate on writing).

Z. Follow steps to complete a short research project (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

AA. Gather relevant information (e.g., highlight in text, quote or paraphrase from text or discussion) from print (e.g., text read aloud, printed image) and/or digital sources (e.g., video, audio, images/graphics) relevant to a topic.

BB. Quote or paraphrase the data and conclusions of others while avoiding plagiarism.

CC. Provide a bibliography for sources that contributed to the creation of a permanent product.

DD. Provide evidence from texts when producing permanent products.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9339. Speaking and Listening

A. Interpret information presented in diverse media and formats (e.g., visually, quantitatively, orally).

B. Explain how information gained via media and formats contributes to the understanding of a topic, text, or issue under study.

C. Summarize the points a speaker makes.

D. Summarize the points an author makes.

E. Distinguish claims or arguments from those that are supported by evidence from those that are not.

F. Distinguish claims presented orally or in writing that are supported by reasons and claims that are not.

G. Report on a topic, story or claim with a logical sequence of ideas, appropriate facts and relevant, descriptive details.

H. Include multimedia components (e.g., graphics, images, music, sound) and visual displays in presentations to clarify information.

I. Use captioned pictures, labeled diagrams, tables, or other visual displays in presentations when appropriate to support the topic or theme.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9340. Language

A. Use strategies (e.g., clarify language and grammar, vary sentence patterns, maintain consistent tone and style) to improve written expression in conventional language.

B. Use commas, parentheses, and/or dashes to set off nonrestrictive/parenthetical elements.

C. Spell words correctly when communicating.

D. Vary sentence patterns for meaning, reader interest, and style when communicating.

E. Use context to determine the meaning of unknown or multiple meaning words.

F. Use common grade-appropriate roots and affixes as clues to the meaning of a word.

G. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the pronunciation of a word.

H. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the synonym for a word.

I. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the precise meaning of a word.

J. Verify the prediction of the meaning of a new word or phrase (e.g., by checking a dictionary).

K. Explain the meaning of figures of speech (e.g., personification, idioms, proverbs) in context.

L. Interpret the use of personification within a text.

M. Use figurative language appropriately, including similes and metaphors.

N. Use the relationship between particular words (e.g., synonyms, antonyms, homographs) in writing to promote understanding of each of the words.

O. Use the relationship between particular words (e.g., cause/effect, part/whole, item/category) to better understand each of the words.

P. Identify the connotative meaning (i.e., the idea associated with the word) of a word or phrase.

Q. Use grade-appropriate general academic and domain-specific words and phrases accurately.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter H. Grade 7

§9341. Reading Literature

A. Refer to details and examples in a text when explaining what the text says explicitly.

B. Use two or more pieces of textual evidence to support conclusions, or summaries of text.

C. Determine the theme or central idea of a text.

D. Analyze the development of the theme or central idea over the course of the text.

E. Analyze the impact of story elements on the text (e.g., impact of setting on a character's choices, cause/effects within the text).

F. Analyze how particular elements of a story or drama interact (e.g., how setting shapes the characters or plot).

G. Determine the meaning of words and phrases as they are used in a text including figurative (i.e., metaphors, similes, and idioms) and connotative meanings.

H. Identify alliteration within text.

I. Analyze how the use of rhymes or repetitions of sounds affect the tone of the poem, story, or drama.

J. Examine how the structure of a poem or drama adds to its meaning.

K. Compare and contrast the points of view of different characters in the same text.

L. Compare and contrast a story, drama, or poem when presented in two different mediums.

M. Compare and contrast different mediums that may be used to present literary materials to explore the techniques used in the various mediums.

N. Compare and contrast a fictional portrayal of a time, place, or character and a historical account of the same period as a means of understanding how authors of fiction use or alter history.

O. Read or be read to a variety of literary texts or adapted texts including historical novels, dramas or plays, poetry (including soliloquies and sonnets), and fiction.

P. Use a variety of strategies to derive meaning from a variety of print and non-print literary texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9342. Reading Informational Text

A. Use two or more pieces of evidence to support inferences, conclusions, or summaries of text.

B. Determine the central idea of a text.

C. Analyze the development of the central idea over the course of the text.

D. Create an objective summary of a text.

E. Analyze the interactions between individuals, events, and ideas in a text (e.g., how ideas influence individuals or events, or how individuals influence ideas or events).

F. Determine the meaning of words and phrases as they are used in a text including figurative (i.e., metaphors, similes, and idioms) and connotative meanings.

G. Analyze how the use of figurative, connotative or technical terms affect the meaning or tone of text.

H. Use signal words as a means of locating information.

I. Outline a given text to show how ideas build upon one another.

J. Determine the structure of a text.

K. Determine how the information in each section contribute to the whole or to the development of ideas.

L. Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.

M. Compare/contrast how two or more authors write or present about the same topic.

N. Identify an argument or claim that the author makes.

O. Evaluate the claim or argument to determine if they are supported by evidence.

P. Distinguish claims or arguments from those that are supported by evidence from those that are not.

Q. Use supporting evidence to summarize central ideas, draw inferences, or analyze connections within or across texts.

R. Compare/contrast how two or more authors write about the same topic.

S. Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.

T. Read or be read to a variety of informational texts or adapted texts.

U. Use a variety of strategies to derive meaning from a variety of print and non-print informational texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9343. Writing

A. Produce a persuasive permanent product which has an introduction that introduces a claim and acknowledges alternate or opposing claims.

B. Create an organizational structure in which ideas are logically grouped to support the claim.

C. Support the claim with logical reasoning and relevant evidence from credible sources.

D. Use words, phrases, and clauses to link the claim and reasons and clarify relationships among ideas.

E. Maintain a consistent style and voice.

F. Provide a concluding statement or section that follows from and supports the argument presented.

G. Produce an informative/explanatory permanent product which has an introduction that clearly previews information to follow about a topic.

H. Organize ideas, concepts, and information (e.g., using definition, classification, comparison/contrast, and cause/effect).

I. Develop the topic (i.e., add additional information related to the topic) with relevant facts, definitions, concrete details, quotations, or other information and examples.

J. Use transitional words, phrases, and clauses that connect ideas and create cohesion.

K. Use precise language and domain-specific vocabulary to inform about or explain the topic.

L. Maintain a consistent style and voice.

M. Provide a concluding statement or section that follows from and supports the information presented.

N. Produce a narrative permanent product which engages and orients the reader by establishing a context and point of view and introducing the narrator and/or characters.

O. Organize events so they unfold naturally.

P. When appropriate, use narrative techniques (e.g., dialogue, pacing, and description), to develop experiences, events, and/or characters.

Q. Use a variety of transition words, phrases, and clauses to convey sequence and signal shifts from one time frame or setting to another.

R. Use precise words and phrases, relevant descriptive details, and sensory language to capture the action and convey experiences and events.

S. Provide a conclusion that follows from the narrated experiences or events.

T. Use words, phrases, or gathered information to accurately reflect literary context.

U. Produce a clear, coherent permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to persuade or inform), and audience (e.g., reader).

V. With guidance and support from peers and adults, develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft).

W. With guidance and support from peers and adults, strengthen writing by revising and editing (e.g., review a permanent product, strengthen an informative/explanatory permanent product by adding transitional phrases, vary sentence types).

X. Use technology to produce and publish writing (e.g., use internet to gather information; use word processing to generate and collaborate on writing).

Y. Follow steps to complete a short research project (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

Z. List internet search terms for a topic of study.

AA. Gather relevant information (e.g., highlight in text, quote or paraphrase from text or discussion) from print (e.g., text read aloud, printed image) and/or digital sources (e.g., video, audio, images/graphics) relevant to a topic.

BB. Quote or paraphrase the data and conclusions of others while avoiding plagiarism.

CC. Use a standard format to write citations.

DD. Provide a bibliography for sources that contributed to the creation of a permanent product.

EE. Provide evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9344. Speaking and Listening

A. Describe how the claims within a speaker's argument match own argument.

B. Discuss how own view or opinion changes using new information provided by others.

C. Use information and feedback to refine understanding or products.

D. Use information and feedback to refine own thinking.

E. Critically evaluate main ideas and details presented in diverse media (e.g., visually, personal communication, periodicals, social media) and formats for accuracy.

F. Explain if and how ideas presented in diverse media (e.g., visually, personal communication, periodicals, social media) clarify a topic, text, or issue under study.

G. Identify how information on a topic or text presented in diverse media and formats (e.g., visually, quantitatively, orally) contributes to understanding.

H. Evaluate the soundness of reasoning and the relevance and sufficiency of evidence provided in an argument.

I. Evaluate the soundness or accuracy of reasons presented to support a claim.

J. Present claims and findings, emphasizing salient points in a coherent manner with pertinent descriptions, facts, details, and examples.

K. Report on a topic, with a logical sequence of ideas, appropriate facts and relevant, descriptive details which support the main ideas.

L. Include multimedia components and visual displays in presentations to clarify claims and findings and emphasize salient points.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9345. Language

A. Use phrases and clauses accurately within a sentence.

B. When appropriate, use simple, compound, complex, and compound-complex sentences when communicating.

C. Use commas to separate coordinate adjectives.

D. Spell words correctly.

E. Use words, phrases, or gathered information to accurately reflect meaning.

F. Choose language that expresses ideas precisely and concisely by eliminating wordiness and redundancy.

G. Use context as a clue to determine the meaning of a grade-appropriate word or phrase.

H. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the pronunciation of a word.

I. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the synonym for a word.

J. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the precise meaning of a word.

K. Verify the prediction of the meaning of a new word or phrase (e.g., by checking a dictionary).

L. Identify allusion within a text or media.

M. Interpret figures of speech (e.g., personification, allusions) in context.

N. Use the relationship between particular words (e.g., synonym/antonym, analogy) to better understand each of the words.

O. Identify the connotative meaning (the idea associated with the word) of a word or phrase.

P. Distinguish among the connotations (i.e., associations) of words with similar denotations (i.e., definitions) (e.g., slim, skinny, scrawny, thin).

Q. Use words, phrases, or gathered information to accurately reflect literary context.

R. Use grade-appropriate general academic and domain-specific words and phrases accurately.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter I. Grade 8

§9346. Reading Literature

A. Refer to details and examples in a text when explaining what the text says explicitly.

B. Use two or more pieces of evidence to support inferences, conclusions, or summaries or text.

C. Determine which piece(s) of evidence provide the strongest support for inferences, conclusions, or summaries or text.

D. Determine the theme or central idea of a text.

E. Analyze the development of the theme or central idea over the course of the text including its relationship to the characters, setting and plot.

F. Create an objective summary of a text.

G. Analyze how particular lines of dialogue or incidents in a story or drama propel the action, reveal aspects of a character or provoke a decision.

H. Identify the use of literary techniques within a text.

I. Explain how the use of literary techniques within a text advances the plot or reveal aspects of a character.

J. Identify and interpret an analogy within a text.

K. Determine the meaning of words and phrases as they are used in a text including figurative (i.e., metaphors, similes, and idioms) and connotative meanings.

L. Compare and contrast the structure of two or more texts.

M. Explain how language use contributes to the meaning of a poem or drama.

N. Compare and contrast the points of view of different characters in the same text.

O. Analyze how differences in points of view of the characters and the audience or reader (e.g., created through the use of dramatic irony) creates such effects as suspense or humor.

P. Compare and contrast content presented in text, media, and live performance.

Q. Compare modern works of literature to the texts from which they draw ideas.

R. Read or be read to a variety of literary texts or adapted texts including historical novels, dramas or plays, poetry (including soliloquies and sonnets), and fiction.

S. Use a variety of strategies to derive meaning from a variety of print and non-print literary texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9347. Reading Informational Text

A. Use two or more pieces of evidence to support inferences, conclusions, or summaries of text.

B. Determine which piece(s) of evidence provide the strongest support for inferences, conclusions, or summaries of text.

C. Determine two or more central ideas in a text.

D. Analyze the development of the central ideas over the course of the text.

E. Provide/create an objective summary of a text.

F. Analyze how a text makes connections among and distinctions between individuals, ideas, or events (e.g., through comparisons, analogies, or categories).

G. Identify and interpret an analogy within a text.

H. Determine the meaning of words and phrases as they are used in a text including figurative (i.e., metaphors, similes, and idioms) and connotative meanings.

I. Analyze how the use of figurative, connotative or technical terms affects the meaning or tone of text.

J. Use signal words as a means of locating information.

K. Outline the structure (i.e., sentence that identifies key concept(s), supporting details) within a paragraph.

L. Determine the structure of a text.

M. Determine how the information in each section contributes to the whole or to the development of ideas.

N. Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.

O. Identify an argument or claim that the author makes.

P. Evaluate the claim or argument to determine if it is supported by evidence.

Q. Analyze a case in which two or more texts provide conflicting information on the same topic and identify where the texts disagree on matters of fact or interpretation.

R. Read or be read to a variety of informational texts or adapted texts.

S. Use a variety of strategies to derive meaning from a variety of print and non-print informational texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9348. Writing

A. Produce a persuasive permanent product which has an introduction that introduces a claim and distinguishes it from alternate or opposing claims.

B. Create an organizational structure in which ideas are logically grouped to support the claim.

C. Support the claim with logical reasoning and relevant evidence from credible sources.

D. Use words, phrases and clauses to link the claim and reasons and clarify relationship among ideas.

E. Maintain a consistent style and voice.

F. Provide a concluding statement or section that follows from and supports the argument presented.

G. Produce an informative/explanatory permanent product which has an introduction that clearly previews information to follow about a topic.

H. Create an organizational structure (e.g., cause/effect, compare/contrast, descriptions and examples) that groups information logically to support the stated topic.

I. Develop the topic (i.e., add additional information related to the topic) with relevant, well-chosen facts, definitions, concrete details, quotations, or other information and examples.

J. Use transitional words, phrases, and clauses that connect ideas and create cohesion.

K. Use precise language and domain-specific vocabulary to inform about or explain the topic.

L. Maintain a consistent style and voice.

M. Provide a concluding statement or section that follows from and supports the information or explanation presented.

N. Produce a narrative permanent product which engages and orients the reader by establishing a context and point of view and introducing a narrator and/or characters.

O. Organize events so they unfold naturally.

P. When appropriate, use narrative techniques, such as dialogue, pacing, and description, to develop experiences, events, and/or characters.

Q. Use a variety of transition words, phrases, and clauses to convey sequence, signal shifts from one time frame or setting to another, and show the relationships among experiences and events.

R. Use precise words and phrases, relevant descriptive details, and sensory language to capture the action and convey experiences and events.

S. Provide a conclusion that follows from the narrated experiences or events.

T. Use literacy devices (e.g., similes, metaphors, hyperbole, personification, imagery) when communicating.

U. Produce a clear, coherent permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to persuade or inform), and audience (e.g., reader).

V. With guidance and support from peers and adults, develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft).

W. With guidance and support from peers and adults, strengthen writing by revising and editing (e.g., review a permanent product, strengthen a persuasive permanent product by adding a reason, vary sentence types).

X. Use technology to produce and publish permanent products (e.g., use word processing to generate and collaborate on writing).

Y. Follow steps to complete a short research project (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

Z. Gather relevant information (e.g., highlight in text, quote or paraphrase from text or discussion) from print (e.g., text read aloud, printed image) and/or digital sources (e.g., video, audio, images/graphics) relevant to a topic.

AA. Quote or paraphrase the data and conclusions of others while avoiding plagiarism.

BB. Use a standard format to produce citations.

CC. Provide a bibliography for sources that contributed to the creation of a permanent product.

DD. Provide evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9349. Speaking and Listening

A. Use information and feedback to refine understanding.

B. Use information and feedback to clarify meaning for readers.

C. Discuss how own view or opinion changes using new information provided by others.

D. Analyze the purpose of information presented in diverse media (e.g., visually, personal communication, periodicals, social media).

E. Identify the motives behind information presented in diverse media and formats (e.g., visually, personal communication, periodicals, social media).

F. Evaluate the motives and purpose behind information presented in diverse media and format for persuasive reasons.

G. Evaluate the soundness of reasoning and the relevance and sufficiency of evidence provided in an argument.

H. Identify when irrelevant evidence is introduced within an argument.

I. Evaluate the soundness or accuracy (e.g., multiple sources to validate information) of reasons presented to support a claim.

J. Present claims and findings, emphasizing salient points in a coherent manner with relevant evidence.

K. Report on a topic, with a logical sequence of ideas, appropriate facts and relevant, descriptive details which support the main ideas.

L. Include multimedia components and visual displays in presentations to clarify claims and findings and emphasize salient points.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9350. Language

A. Use active and passive verbs when communicating.

B. Use verbs in indicative, imperative, interrogative, conditional, and/or subjunctive mood when communicating.

C. Use punctuation (e.g., comma, ellipsis, dash) to indicate a pause or break.

D. Spell words correctly.

E. Use active and passive voice in writing to achieve a particular effect.

F. Use verbs in the conditional and subjunctive mood to achieve a particular effect.

G. Use context as a clue to the meaning of a grade-appropriate word or phrase.

H. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the pronunciation of a word.

I. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the synonym for a word.

J. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the precise meaning of a word.

K. Verify the prediction of the meaning of a new word or phrase (e.g., by checking a dictionary).

L. Identify irony within a text or media

M. Identify a pun within a text or media.

N. Interpret figures of speech (e.g., allusions, verbal irony, puns) in context.

O. Use literacy devices (e.g., similes, metaphors, hyperbole, personification, imagery) in narrative writing.

P. Use the relationship between particular words to better understand each of the words.

Q. Distinguish among the connotations (i.e., associations) of words with similar denotations (i.e., definitions) (e.g., bullheaded, willful, firm, persistent, resolute).

R. Use grade-appropriate general academic and domain-specific words and phrases accurately.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter J. Grade 9-10

§9351. Reading Literature

A. Use two or more pieces of evidence to support inferences, conclusions, or summaries of the plot, purpose, or theme within a text.

B. Determine which piece(s) of evidence provide the strongest support for inferences, conclusions, or summaries of text.

C. Determine the theme or central idea of an adapted grade appropriate text.

D. Determine how the theme develops.

E. Determine how key details support the development of the theme of an adapted grade-level text.

F. Identify character with multiple or conflicting motivations (i.e., a complex character).

G. Delineate how a complex character develops over the course of a text, interacts with other characters, and advances the plot or develops the theme.

H. Determine the meaning of words and phrases as they are used in a text including figurative (e.g., metaphors, similes, and idioms) and connotative meanings.

I. Analyze how an author's choices concerning how to structure a text, order events within it (e.g., parallel plots), and manipulate time (e.g., pacing, flashbacks) create such effects as mystery, tension, or surprise.

J. Compare and contrast works from different cultures with a common theme.

K. Analyze the representation of a subject or a key scene in two different artistic mediums, including what is absent in each treatment.

L. Analyze how an author draws on source material in a specific work (e.g., how Shakespeare treats a theme or topic from Ovid or the Bible or how a later author draws on a play by Shakespeare).

M. Read or be read to a variety of literary texts or adapted texts including historical novels, classical dramas or plays, poetry, novels written by international authors, and fiction.

N. Read challenging grade-level literary texts.

O. Use strategies to derive meaning from a variety of print and non-print literary texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9352. Reading Informational Text

A. Use two or more pieces of evidence to support inferences, conclusions, or summaries.

B. Determine which piece(s) of evidence provide the strongest support for inferences, conclusions, or summaries in a text.

C. Determine the central idea of a text.

D. Determine how the central idea develops.

E. Determine how key details support the development of the central idea of a text.

F. Create an objective summary of a text.

G. Analyze key points throughout a text to determine the organizational pattern or text structure.

H. Identify connections between key points.

I. Determine the meaning of words and phrases as they are used in a text including figurative (e.g., metaphors, similes, and idioms) and connotative meanings.

J. Analyze the use of figurative, connotative or technical terms on the meaning or tone of text.

K. Analyze in detail how an author's ideas or claims are developed.

L. Identify key sentences or paragraphs that support claims.

M. Determine the author's point of view or purpose in a text.

N. Determine/identify the specific language/words that the author uses to advance the point of view or purpose.

O. Develop and explain ideas for why authors made specific word choices within text.

P. Analyze various accounts of a subject told in different mediums (e.g., a person's life story in both print and multimedia), determining which details are emphasized in each account.

Q. Identify claims and arguments made by the author.

R. Delineate/trace the author's argument and specific claims.

S. Evaluate the argument/claims that the author makes to determine if the statements are true or false.

T. Delineate the argument and specific claims in two or more texts on related topics.

U. Assess the validity of the arguments across texts on related topics.

V. Identify central ideas and concepts in seminal U.S. documents of historical and literary significance (e.g., Washington's Farewell Address, the Gettysburg Address, Roosevelt's Four Freedoms speech, King's "Letter from Birmingham Jail").

W. Analyze how seminal U.S. documents of historical and literary significance (e.g., Washington's Farewell Address, the Gettysburg Address, Roosevelt's Four Freedoms speech, King's "Letter from Birmingham Jail") address similar central ideas.

X. Read or be read to a variety of informational texts or adapted texts.

Y. Read challenging grade-level informational texts.

Z. Use a variety of strategies to derive meaning from a variety print and non-print informational texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9353. Writing

A. Introduce claim(s) for an argument that reflects knowledge of the topic.

B. Identify claim(s) from alternate or opposing claims(s) in writing.

C. Create an organizational structure which develops relationships among claim(s), reasons, and evidence (e.g., introduce claims, distinguish supporting and opposing claims and relevant evidence for each, provide conclusion).

D. Identify specific evidence for claim(s) and counterclaim(s).

E. Use words, phrases, and clauses to clarify the relationship among claims, counterclaims, reasons, and evidence.

F. Maintain a consistent style and voice.

G. Provide a concluding statement or section that supports the argument presented by stating the significance of the claim.

H. Produce an informative/explanatory permanent product which has an introduction that clearly previews information to follow about a topic.

I. Create an organizational structure (e.g., cause/effect, compare/contrast, descriptions and examples) that groups information logically to support the stated topic.

J. Develop the topic (i.e., add additional information related to the topic) with relevant facts, extended definitions, concrete details, quotations, or other information and examples appropriate for the audience.

K. Use transitional words, phrases, and clauses that connect ideas and create cohesion.

L. Use precise language and domain-specific vocabulary to manage the complexity of the topic.

M. Maintain a consistent style and voice.

N. Provide a concluding statement or section that follows from and supports the information or explanation presented.

O. Produce a narrative permanent product which engages and orients the reader by setting out a problem, situation, or observation and establishes one or multiple point(s) of view.

P. Sequence events so that they build on one another to create a smooth progression of experiences or events.

Q. Include plot and pacing techniques (e.g., flashback, foreshadowing, suspense) as appropriate.

R. Include dialogue that advances the plot or theme (e.g., reveals character motivations, feelings, thoughts, how a character has changed perspectives).

S. Use precise words and phrases, telling details, and sensory language to convey a vivid picture of the experiences, events, setting, and/or characters.

T. Provide a conclusion that follows from and reflects on what is experienced, observed, or resolved over the course of the narrative.

U. Produce a clear, coherent permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to persuade or inform), or audience (e.g., reader).

V. Develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft) focused on a specific purpose and audience.

W. Strengthen writing by revising and editing (e.g., review a permanent product, strengthen informative/explanatory permanent products by adding examples, use parallel structure correctly).

X. Use technology to produce and publish permanent products (e.g., use the Internet to gather information; use word processing to generate and collaborate on permanent products).

Y. Follow steps to complete a short or sustained research project to build knowledge on a topic or text, answer a question and/or solve a problem (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

Z. Gather relevant information (e.g., highlight in text, quote or paraphrase from text or discussion) from authoritative print and/or digital sources relevant to a topic or stated claim.

AA. Integrate information presented by others into permanent products while avoiding plagiarism.

BB. Use a standard format to write citations.

CC. Provide a bibliography for sources that contributed to the creation of a permanent product.

DD. Provide evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9354. Speaking and Listening

A. Work with peers to set rules for collegial discussions and decision-making.

B. Actively seek the ideas or opinions of others in a discussion on a given topic or text.

C. Engage appropriately in discussion with others who have a diverse or divergent perspective.

D. Clarify, verify, or challenge ideas and conclusions within a discussion on a given topic or text.

E. Summarize points of agreement and disagreement within a discussion on a given topic or text.

F. Use evidence and reasoning presented in discussion on topic or text to make new connections with own view or understanding.

G. Analyze credibility of sources and accuracy of information presented in social media regarding a given topic or text.

H. Determine the speaker's point of view or purpose in a text.

I. Determine what arguments the speaker makes.

J. Evaluate the evidence used to make the argument.

K. Evaluate a speaker's point of view, reasoning, and use of evidence for false statements, faulty reasoning or exaggeration.

L. Report on a topic, using a logical sequence of ideas, appropriate facts and relevant, and descriptive details which support the main ideas.

M. Include digital or multimedia components and visual displays in presentations to clarify claims and findings and emphasize salient points.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9355. Language

A. Use parallel structure (e.g., when using gerunds [-ing], infinitives, or voice [active or passive]) within writing.

B. Use various types of phrases (noun, verb, adjectival, adverbial, participial, prepositional, absolute) and clauses (independent, dependent; noun, relative, adverbial) to convey meaning and add interest to writing.

C. Use a semicolon (i.e., link two or more related independent clauses) and/or colon (i.e., to introduce a list or quotation) appropriately in writing.

D. Spell correctly in writing.

E. Write and edit work to conform to guidelines in a style manual.

F. Use context (e.g., the overall meaning of a sentence, paragraph, or text; a word's position in a sentence) as a clue to the meaning of a word or phrase.

G. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the synonym for a word.

H. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the precise meaning of a word.

I. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the part of speech for a word.

J. Verify the prediction of the meaning of a new word or phrase (e.g., by checking a dictionary).

K. Identify an oxymoron in a text.

L. Identify the denotation for a known word.

M. Interpret how literary devices advance the plot or affect the tone or pacing of a text.

N. Interpret figures of speech in context.

O. Explain differences or changes in the meaning of words with similar denotations.

P. Use general academic and domain-specific words and phrases accurately.

Q. Use newly acquired domain-specific words and phrases accurately.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter K. Grade 11-12

§9356. Reading Literature

A. Use two or more pieces of evidence to support inferences, conclusions, or summaries of the plot, purpose, or theme within a text.

B. Determine which piece(s) of evidence provide the strongest support for inferences, conclusions, or summaries or text.

C. Use evidence to support conclusions about ideas not explicitly stated in the text.

D. Determine two or more themes or central ideas of an adapted grade-level text.

E. Determine how the theme develops.

F. Provide/create an objective summary of a text.

G. Analyze the author's choices about what is developed and included in the text and what is not developed and included related to story elements.

H. Analyze author's choices about how to relate elements of the story (e.g., where a story is set, how the action is ordered, how the characters are introduced and developed).

I. Determine the meaning of words and phrases as they are used in a text including figurative (e.g., metaphors, similes, and idioms) and connotative meanings.

J. Analyze how an author's choices concerning how to structure specific parts of a text (e.g., the choice of where to begin or end a story, the choice to provide a comedic or tragic resolution) contribute to its overall structure and meaning.

K. Define satire, sarcasm, and irony.

L. Differentiate from what is directly stated in a text from what is meant.

M. Analyze multiple interpretations of a story drama, or poem (e.g., recorded or live productions of a play or recorded novel or poetry) evaluating how each version interprets the source text.

N. Demonstrate knowledge of foundational words of U.S. and world literature, including how two or more texts from the same period treat similar themes or topics (e.g., historical reflection, social, morals).

O. Read or be read to a variety of literary texts or adapted texts including historical novels, classical dramas or plays, poetry, novels written by international authors, and fiction.

P. Independently read challenging grade-level literary texts.

Q. Use a variety of strategies to derive meaning from a variety of print and non-print literary texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9357. Reading Informational Text

A. Use two or more pieces of evidence to support inferences, conclusions, or summaries or text.

B. Determine which piece(s) of evidence provide the strongest support for inferences, conclusions, or summaries in a text.

C. Determine two or more central ideas of a text.

D. Determine how the central ideas develop.

E. Determine how key details support the development of the central idea of a text.

F. Create an objective summary of a text.

G. Analyze key points throughout a text to determine the organizational pattern or text structure.

H. Analyze a complex set of ideas or sequence of events and explain how specific individuals, ideas, or events interact and develop over the course of the text.

I. Determine the meaning of words and phrases as they are used in a text including figurative (e.g., metaphors, similes, and idioms) and connotative meanings.

J. Analyze the structure an author uses in his or her exposition or argument.

K. Evaluate the effectiveness of the structure an author uses in his or her exposition or argument, to determine whether the structure makes points clear, convincing.

L. Determine the author's point of view or purpose in a text.

M. Determine what arguments the author makes.

N. Determine/identify the specific language/words that the author uses that contribute to the power, persuasiveness or beauty of the text.

O. Develop and explain ideas for why authors made specific word choices within text.

P. Integrate and evaluate multiple sources of information presented in different media or formats (e.g., visually, quantitatively) as well as in words in order to address a question or solve a problem.

Q. Identify claims made by the author as being fact or opinion.

R. Distinguish reliable sources from non-reliable.

S. Evaluate the premises, purposes, argument that the author makes.

T. Delineate the premises, purposes, argument and specific claims in two or more texts on related topics.

U. Assess the validity of the premises, purposes, arguments across texts on related topics.

V. Identify central ideas and concepts in seminal U.S. documents of historical and literary significance (e.g., Washington's Farewell Address, the Gettysburg Address, Roosevelt's Four Freedoms speech, King's —Letter from Birmingham Jail).

W. Analyze seminal U.S. documents of historical and literary significance (e.g., Washington's Farewell Address, the Gettysburg Address, Roosevelt's Four Freedoms speech, King's—Letter from Birmingham Jail), address similar central ideas.

X. Read or be read to a variety of informational texts or adapted texts.

Y. Independently read challenging grade-level informational texts.

Z. Use a variety of strategies to derive meaning from a variety of print and non-print informational texts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9358. Writing

A. Introduce claim(s) for an argument that reflects knowledge of the topic.

B. Use context or related text to establish the significance of the claim(s).

C. Identify claim(s) from alternate or opposing claims(s) in writing.

D. Create an organizational structure for a permanent product which logically sequences claim(s), counterclaims, reasons, and evidence (e.g., introduce claims, distinguish supporting and opposing claims and relevant evidence for each, provides conclusion).

E. Select the most relevant evidence for claim(s) and counterclaim(s).

F. If Develop clear claim(s) with the most relevant evidence for a topic or text.

G. Use words, phrases, and clauses to create cohesion.

H. Use words, phrases, and clauses to clarify the relationship among claims, counterclaims, reasons, and evidence.

I. Maintain a consistent style and voice.

J. Provide a concluding statement or section that supports the argument presented by stating the significance of the claim and/or presenting next steps related to the topic.

K. Produce an informative/explanatory permanent product which has an introduction that clearly previews information to follow about a topic.

L. Create an organizational structure (e.g., cause/effect, compare/contrast, descriptions and examples) that groups information logically to support the stated topic.

M. Develop the topic (i.e., add additional information related to the topic) with facts, extended definitions, concrete details, quotations, or other information and examples that are most relevant to the focus and appropriate for the audience.

N. Use transitional words, phrases, and clauses that connect ideas and create cohesion within writing.

O. Use precise language, domain-specific vocabulary to manage the complexity of the topic.

P. Maintain a consistent style and voice.

Q. Provide a concluding statement or section that follows from and supports the information or explanation presented.

R. Produce a narrative permanent product which engages and orients the reader by setting out a problem, situation, or observation and establishes one or multiple point(s) of view.

S. Use a variety of techniques to sequence events so they build on one another to create a smooth progression of experiences or events and build toward a particular tone and outcome (e.g., a sense of mystery, suspense, growth, resolution).

T. Include plot and pacing techniques (e.g., flashback, foreshadowing, suspense) as appropriate.

U. Include dialogue that advances the plot or theme (e.g., reveals character motivations, feelings, thoughts, how character has changed perspectives).

V. Use precise words and phrases, telling details, and sensory language to convey a vivid picture of the experiences, events, setting, and/or characters.

W. Provide a conclusion that follows from and reflects on what is experienced, observed, or resolved over the course of the narrative.

X. Produce a clear, coherent permanent product that is appropriate to the specific task (e.g., topic or text), purpose (e.g., to persuade or inform), or audience (e.g., reader).

Y. Develop a plan for permanent products (e.g., brainstorm topics, select a topic, gather information, create a draft) focused on a specific purpose and audience.

Z. Strengthen writing by revising and editing (e.g., review a permanent product, strengthen an argument by finding relevant evidence as support, use hyphens correctly).

AA. Use technology to produce and publish permanent products (e.g., use the Internet to gather information; use word processing to generate and collaborate on permanent products).

BB. Follow steps to complete a short or sustained research project to build knowledge on a topic or text, answer a question and/or solve a problem (e.g., determine topic, locate information on a topic, organize information related to the topic, draft a permanent product).

CC. Gather relevant information (e.g., highlight in text, quote or paraphrase from text or discussion) from authoritative print and/or digital sources relevant to a topic or stated claim.

DD. Integrate information presented by others which is determined to be the most appropriate for the task, purpose, and audience into permanent products while avoiding plagiarism.

EE. Use a standard format to write citations.

FF. Provide a bibliography for sources that contributed to the creation of a permanent product.

GG. Provide evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9359. Speaking and Listening

A. Work with peers to promote democratic discussions.

B. Actively seek the ideas or opinions of others in a discussion on a given topic or text.

C. Consider a full range of ideas or positions on a given topic or text when presented in a discussion.

D. Engage appropriately in discussion with others who have a diverse or divergent perspectives.

E. Clarify, verify, or challenge ideas and conclusions within a discussion on a given topic or text

F. Summarize points of agreement and disagreement within a discussion on a given topic or text.

G. Use evidence and reasoning presented in discussion on topic or text to make new connections with own view or understanding.

H. Analyze credibility of sources and accuracy of information presented in social media regarding a given topic or text.

I. Determine the speaker's point of view or purpose in a text.

J. Determine what arguments the speaker makes.

K. Evaluate the evidence used to make the speaker's argument.

L. Evaluate a speaker's point of view, reasoning, use of evidence, and rhetoric for ideas, relationship between claims, reasoning, and evidence, and word choice.

M. Report on a topic, using a logical sequence of ideas, appropriate facts and relevant, and descriptive details which support the main ideas.

N. Include digital or multimedia components and visual displays in presentations to clarify claims and findings and emphasize salient points.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9360. Language

A. Use hyphenation conventions.

B. Spell correctly.

C. Create and edit permanent products to conform to guidelines in a style manual.

D. Vary syntax within writing for effect.

E. Use context (e.g., the overall meaning of a sentence, paragraph, or text; a word's position in a sentence) as a clue to the meaning of a word or phrase.

F. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the synonym for a word.

G. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the precise meaning of a word.

H. Consult print or digital reference materials (e.g., dictionaries, glossaries, thesauruses) to find the part of speech for a word.

I. Verify the prediction of the meaning of a new word or phrase (e.g., by checking a dictionary).

J. Identify hyperbole in a text.

K. Interpret how literary devices advance the plot or affect the tone or pacing of a text.

L. Interpret figures of speech in context.

M. Explain differences or changes in the meaning of words with similar denotations.

N. Use general academic and domain-specific words and phrases accurately.

O. Use newly acquired domain-specific words and phrases accurately.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Chapter 95. Mathematics

Subchapter A. Kindergarten

§9501. Counting and Cardinality

A. Count up to 10 objects in a line, rectangle, or array.

B. Identify the set that has more.

C. Identify the smaller or larger number given 2 numbers between 0-10.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9503. Operations and Algebraic Thinking

A. Use objects or pictures to respond appropriately to "add ___" and "take away ___."

B. Communicate answer after adding or taking away.

C. Solve one step addition and subtraction word problems, and add and subtract within 10 using objects, drawings, pictures.

D. Solve word problems within 10.

E. Decompose a set of up to 10 objects into a group; count the quantity in each group.

F. For any number from 1 to 9, find the number that makes 10 when added to the given number, e.g., by using objects or drawings, and record or select the answer.

G. Add and subtract within 5 using manipulatives.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9505. Number and Operations in Base Ten

A. Build representations of numbers up to 19 by creating a group of 10 and some 1s (e.g., 13 = one 10 and three 1s).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9507. Measurement and Data

A. Describe objects in terms of measurable attributes (longer, shorter, heavier, lighter...).

B. Compare 2 objects with a measurable attribute in common to see which object has more/less of the attribute (length, height, weight).

C. Sort objects by characteristics (e.g., big/little, colors, shapes, etc.).

D. Recognize pennies, nickels, dimes, and quarters by name and value (e.g., This is a nickel and it is worth 5 cents.).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9509. Geometry

A. Use spatial language (e.g., above, below, etc.) to describe two-dimensional shapes.

B. Recognize two-dimensional shapes (e.g., circle, square, triangle, rectangle) regardless of orientation or size.

C. Recognize two-dimensional shapes in environment regardless of orientation or size.

D. Identify shapes as two-dimensional (lying flat) or three-dimensional (solid).

E. Distinguish two-dimensional shapes based upon their defining attributes (i.e., size, corners, and points).

F. Use informal language to describe how two shapes are similar and/or different.

G. Uses three dimensional objects (blocks, sticks, balls) to model shapes in the world.

H. Compose a larger shape from smaller shapes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter B. Grade 1

§9511. Counting and Cardinality

A. Understand the relationship between numbers and quantities.

1. Use a number line to count up to 31 objects by matching 1 object per number.

B. Write numbers from 0-31 and represent a number of objects with a written numeral.

1. Identify numerals 0-31.

2. Identify the numeral up to 31 when presented the name.

3. Write or select the numerals 0-31.

4. Recognize zero as representing none or no objects.

C. Identify whether the number of objects in one group is greater than, less than, or equal to the number of objects in another group.

1. Compare 2 sets and identify the set that is either greater than or less than the other set.

2. Order up to 3 sets that have up to 10 objects in each set.

3. Order up to 3 sets with up to 20 objects in each set.

D. Compare two numbers between 0 and 31 presented as written numerals.

1. Order up to 3 numbers up to 31.

2. Identify the smaller or larger number given 2 numbers between 0-31.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9513. Operations and Algebraic Thinking

A. Use manipulatives or representations to write simple addition or subtraction equations within 20 based upon a word problem.

B. Solve word problems within 20.

C. Using objects or pictures respond appropriately to "add ___" and "take away ___."

D. Solve one step addition and subtraction word problems where the change or result is unknown ($4 + _ = 7$) or ($4 + 3 = _$), within 20 using objects, drawings, pictures.

E. Solve word problems that call for addition of two or three numbers whose sum is less than or equal to 20 by using objects and drawings.

F. Recognize zero as an additive identity.

G. Use commutative properties to solve addition problems with sums up to 20 (e.g., $3 + 8 = 11$ therefore $8 + 3 = _$).

H. Use associative property to solve addition problems with sums up to 20.

I. Subtract within 20 by using the strategy of an unknown addend. For example, subtract $10 - 8$ by finding the number that makes 10 when added to 8.

J. Decompose a set of up to 20 objects into a group; count the quantity in each group.

K. Count 2 sets to find sums up to 20.

L. Add and subtract within 20 supported by the use of manipulatives.

M. Identify and apply addition and equal signs.

N. Label simple equations as = or with the phrase "not equal."

O. Identify and apply addition, subtraction, and equal signs.

P. Determine the unknown whole number in an addition or subtraction equation relating three whole numbers. For example, determine the unknown number that makes the equation true in each of the equations $8 + ? = 11$, $5 = \square - 3$, $6 + 6 = \square$.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9515. Number and Operations in Base Ten

A. Rote count up to 31.

B. Rote count up to 100.

C. Build representations of numbers up to 19 by creating a group of 10 and some 1s (e.g., $13 =$ one 10 and three 1s).

D. Identify the value of the numbers in the tens and ones place within a given number up to 31.

E. Compare two digit numbers up to 31 using representations and numbers (e.g., identify more tens, less tens, more ones, less ones, larger number, smaller number).

F. Add within 100, including adding a two-digit number and a one-digit number, and adding a two-digit number and a multiple of 10.

G. Understand that in adding two-digit numbers, one adds tens and tens, ones and ones; and sometimes it is necessary to compose a ten.

H. Mentally add or subtract 10 from a given two-digit number without having to count.

I. Mentally add or subtract 10 from a given set from the 10s family (e.g., what is 10 more than 50? What is 10 less than 70?).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9517. Measurement and Data

A. Order three objects by length; compare the lengths of two objects indirectly by using a third object.

B. Measure using copies of one object to measure another.

C. Express length of an object as a whole number of lengths unit by laying multiple copies of a shorter object end to end.

D. Compare two units of measurement and identify which unit would require more or less when measuring a selected object (e.g., I can measure with paper clips or markers, which unit will require more to measure the table?).

E. Use time to sequence up to three events, using a digital or analog clock.

F. Tell time to the nearest $\frac{1}{2}$ hour using digital clocks.

G. Select questions that ask about "How many" and represent up to three categories that can be concretely represented.

H. Identify 2 categories resulting from a selected question.

I. Analyze data by sorting into 2 categories; answer questions about the total number of data points and how many in each category.

J. Using a picture graph, represent each object/person counted on the graph (1:1 correspondence) for 2 or more categories.

K. Interpret a picture graph to answer questions about how many in each category.

L. Select a question about three attributes that can be concretely represented.

M. Identify up to three categories resulting from a selected question.

N. Determine the value of a collection of coins up to 50 cents. (Pennies, nickels, dimes, and quarters in isolation; not to include a combination of different coins.)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9519. Geometry

A. Distinguish two-dimensional shapes based upon their defining attributes (i.e., size, corners, and points).

B. Compose two- and three-dimensional shapes.

C. Partition circles and rectangles into 2 and 4 equal parts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter C. Grade 2

§9521. Operations and Algebraic Thinking

- A. Represent addition of two sets when shown the + symbol.
- B. Solve word problems within 20.
- C. Solve word problems within 100.
- D. Solve one- or two-step addition and subtraction problems, and add and subtract within 100, using objects, drawings, pictures.
- E. Use pictures, drawings or objects to represent the steps of a problem.
- F. Add and subtract within 20 using manipulatives.
- G. Identify numbers as odd or even.
- H. Find the total number of objects when given the number of identical groups and the number of objects in each group, neither number larger than 5.
- I. Find the total number inside an array with neither number in the columns or rows larger than 5.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9523. Number and Operations in Base Ten

- A. Build representations of two digit numbers using tens and ones.
- B. Build representations of three digit numbers using hundreds, tens and ones.
- C. Build representations of numbers using hundreds, tens and ones.
- D. Skip count by 5s.
- E. Skip count by 10s.
- F. Skip count by 100s.
- G. Identify numerals 0-100.
- H. Identify the numeral between 0 and 100 when presented the name.
- I. Write or select the numerals 0-100.
- J. Write or select expanded form for any two digit number.
- K. Write or select expanded form for any three digit number.
- L. Explain what the zero represents in place value (hundreds, tens, ones) in a number.
- M. Write or select the expanded form for up to three digit number.
- N. Compare (greater than, less than, equal to) two numbers up to 100.
- O. Compare two digit numbers using representations and numbers (e.g., identify more tens, less tens, more ones, less ones, larger number, smaller number).
- P. Compare three digit numbers using representations and numbers (e.g., identify more hundreds, less hundreds, more tens, less tens, more ones, less ones, larger number, smaller number).
- Q. Model addition and subtraction with base 10 blocks within 20.
- R. Model addition and subtraction with base 10 blocks within 50.
- S. Model addition and subtraction with base 10 blocks within 100.
- T. Combine up to 3 sets of 20 or less.

U. Compose ones into tens and/or tens into hundreds in addition situation.

V. Decompose tens into ones and/or hundreds into tens in subtraction situations.

W. Use diagrams and number lines to solve addition or subtraction problems.

X. Mentally add or subtract 10 from a given set from the 10s family (e.g., what is 10 more than 50? What is 10 less than 70?).

Y. Mentally add or subtract 100 from a given set from the 100s family (e.g., what is 100 more than 500? What is 100 less than 700?).

Z. Mentally add or subtract 100 from a given set from the 100s family (e.g., what is 100 more than 500? What is 100 less than 700?).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9525. Measurement and Data

- A. Select appropriate tool and unit of measurement to measure an object (ruler or yard stick; inches or feet).
 - B. Select appropriate tools and demonstrate or identify appropriate measuring techniques.
 - C. Measure the length of an object using two different size units.
 - D. Recognize that standard measurement units can be decomposed into smaller units.
 - E. Estimate the length of an object using units of feet and inches.
 - F. Measure two objects with each no more than 10 inches long and find the difference in their lengths.
 - G. Solve one-step subtraction problems involving the difference of the lengths of two objects in standard length units.
 - H. Solve word problems involving the difference in standard length units.
 - I. Use diagrams and number lines to solve addition or subtraction problems.
 - J. Tell time to the nearest 5 minutes using a digital clock.
 - K. Solve word problems using dollar bills, quarters, dimes, nickels, or pennies.
 - L. Organize data by representing continuous data on a line plot.
 - M. Analyze data by sorting into categories established by each question.
 - N. Organize data by representing categorical data on a pictorial graph or bar graph.
 - O. Identify the value of each category represented on picture graph and bar graph or each point on a line plot.
 - P. Compare the information shown in a bar graph or picture graph with up to four categories. Solve simple comparisons of how many more or how many less.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.
- HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:
- #### **§9527. Geometry**
- A. Identify two-dimensional shapes such as rhombus, pentagons, hexagons, octagon, ovals, equilateral, isosceles, and scalene triangles.

B. Distinguish two- or three-dimensional shapes based upon their attributes (i.e., # of sides, equal or different lengths of sides, # of faces, # of corners).

C. Draw two-dimensional shapes with specific attributes.

D. Find the total number of same size squares by counting when the number of rows and columns in a given array is 5 or less.

E. Partition circles and rectangles into two and four equal parts.

F. Label a partitioned shape (e.g., one whole rectangle was separated into two halves, one whole circle was separated into three thirds).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter D. Grade 3

§9529. Operations and Algebraic Thinking

A. Describe a context in which a total number of objects can be expressed as product of two one-digit numbers.

B. Describe a context in which a number of shares or a number of groups can be expressed as a division problem.

C. Use objects to model multiplication and division situations involving up to 5 groups with up to 5 objects in each group and interpret the results.

D. Use objects to model multiplication and division situations involving up to 10 groups with up to 5 objects in each group and interpret the results.

E. Find total number inside an array with neither number in the columns or rows larger than 10.

F. Determine how many objects go into each group when given the total number of objects and the number of groups where the number in each group or number of groups is not greater than 10.

G. Apply properties of operations as strategies to multiply and divide.

H. Determine how many objects go into each group when given the total number of objects and the number of groups where the number in each group or number of groups is not greater than 5.

I. Determine the number of groups given the total number of objects and the number of objects in each group where the number in each group and the number of groups is not greater than 5.

J. Find the total number of objects when given the number of identical groups and the number of objects in each group, neither number larger than 5.

K. Find the total number inside an array with neither number in the columns or rows larger than 5.

L. Solve multiplication problems with neither number greater than 5.

M. Use rounding to solve word problems.

N. Solve or solve and check one or two step word problems requiring addition, subtraction or multiplication with answers up to 100.

O. Describe the rule for a numerical pattern (e.g., increase by 2, 5 or 10).

P. Select or name the three next terms in a numerical pattern where numbers increase by 2, 5 or 10.

Q. Identify multiplication patterns in a real word setting.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9531. Number and Operations in Base Ten

A. Use place value to round to the nearest 10 or 100.

B. Use the relationships between addition and subtraction to solve problems.

C. Solve multi-step addition and subtraction problems up to 100.

D. Solve multi-digit addition and subtraction problems up to 1000.

E. Multiply a multiple of 10 in the range of 10-90 by a one digit whole number.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9533. Number and Operations—Fractions

A. Identify the number of highlighted parts (numerator) of a given representation (rectangles and circles).

B. Identify the total number of parts (denominator) of a given representation (rectangles and circles).

C. Identify the fraction that matches the representation (rectangles and circles; halves, fourths, thirds, eighths).

D. Identify that a part of a rectangle can be represented as a fraction that has a value between 0 and 1.

E. Select a model of a given fraction (halves, thirds, fourths, sixths, eighths).

F. Using a representation, decompose a fraction into multiple copies of a unit fraction (e.g., $\frac{3}{4} = \frac{1}{4} + \frac{1}{4} + \frac{1}{4}$).

G. Locate given common unit fractions (i.e., $\frac{1}{2}, \frac{1}{4}, \frac{1}{8}$) on a number line or ruler.

H. Locate fractions on a number line.

I. Order fractions on a number line.

J. Use =, <, or > to compare two fractions with the same numerator or denominator.

K. Express whole numbers as fractions.

L. Determine equivalent fractions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9535. Measurement and Data

A. Solve word problems involving the addition and subtraction of time intervals of whole hours or within an hour (whole hours: 5:00 to 8:00, within hours: 7:15 to 7:45).

B. Determine the equivalence between number of minutes and the fraction of the hour (e.g., 30 minutes = $\frac{1}{2}$ hour).

C. Determine the equivalence between the number of minutes and the number of hours (e.g., 60 minutes = 1 hour).

D. Add to solve one-step word problems.

E. Estimate liquid volume.

F. Select appropriate units for measurement (liquid volume, mass).

G. Select appropriate tools for measurement (liquid volume, mass).

H. Determine whether a situation calls for a precise measurement or an estimation.

I. Collect data, organize into picture or bar graph.

J. Select the appropriate statement that describes the data representations based on a given scaled picture or bar graph.

K. Generate measurement data by measuring lengths using rulers marked with halves and fourths of an inch.

L. Measure to solve problems using number lines and ruler to 1 inch, $\frac{1}{2}$ inch, or $\frac{1}{4}$ of an inch.

M. Organize measurement data into a line plot.

N. Select a square from pictures as the appropriate unit for measuring area.

O. Select a picture which correctly shows how to place squares to measure the area of a rectangle.

P. Measure area of rectangles by counting squares.

Q. Use tiling and addition to determine area.

R. Multiply side lengths to find the area of a rectangle with whole number side lengths to solve problems.

S. Use tiling and multiplication to determine area.

T. Apply the distributive property to solve problems with models.

U. Identify a figure as getting larger or smaller when the dimensions of the figure change.

V. Use addition to find the perimeter of a rectangle.

W. Solve real world problems involving perimeter.

X. Solve word problems using bills greater than one dollar, quarters, dimes, nickels, or pennies.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9537. Geometry

A. Identify shared attributes of shapes.

B. Partition rectangles into equal parts with equal area.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter E. Grade 4

§9539. Operations and Algebraic Thinking

A. Use objects to model multiplication and division situations involving up to 5 groups with up to 5 objects in each group and interpret the results.

B. Determine how many objects go into each group when given the total number of objects and the number of groups where the number in each group or number of groups is not greater than 10.

C. Solve multiplicative comparisons with an unknown using up to 2-digit numbers with information presented in a graph or word problem (e.g., an orange hat cost \$3. A purple hat cost 2 times as much. How much does the purple hat cost? [$3 \times 2 = p$]).

D. Solve or solve and check one or two step word problems requiring addition, subtraction or multiplication with answers up to 100.

E. Solve problems or word problems using up to three digit numbers and addition or subtraction or multiplication.

F. Identify multiples for a whole number (e.g., $2 = 2, 4, 6, 8, 10$).

G. Generate a pattern when given a rule and word problem. (I run 3 miles every day, how many miles have I run in 3 days).

H. Extend a numerical pattern when the rule is provided.

I. Generate a pattern that follows the provided rule.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9541. Number and Operations in Base Ten

A. Compare the value of a number when it is represented in different place values of two 3 digit numbers.

B. Compare multi-digit numbers using representations and numbers.

C. Write or select the expanded form for a multi-digit number.

D. Use place value to round to any place (i.e., ones, tens, hundreds, thousands).

E. Solve multi-digit addition and subtraction problems up to 1000.

F. Solve multiplication problems up to two digits by one digit.

G. Solve a 2-digit by 1-digit multiplication problem using two different strategies.

H. Separate a group of objects into equal sets when given the number of sets to find the total in each set with the total number less than 50.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9543. Number and Operations—Fractions

A. Determine equivalent fractions.

B. Use $=$, $<$, or $>$ to compare 2 fractions (fractions with a denominator or 10 or less).

C. Compare up to 2 given fractions that have different denominators.

D. Using a representation, decompose a fraction into multiple copies of a unit fraction (e.g., $\frac{3}{4} = \frac{1}{4} + \frac{1}{4} + \frac{1}{4}$).

E. Add and subtract fractions with like denominators of (2, 3, 4, or 8).

F. Add and subtract fractions with like denominators (2, 3, 4, or 8) using representations.

G. Solve word problems involving addition and subtraction of fractions with like denominators (2, 3, 4, or 8).

H. Multiply a fraction by a whole or mixed number.

I. Find the equivalent decimal for a given fraction with a denominator of 10 or 100.

J. Match a fraction with a denominator of 10 or 100 as a decimal ($\frac{5}{10} = .5$).

K. Read, write or select decimals to the tenths place.

L. Read, write or select decimals to the hundredths place.

M. Use $=$, $<$, or $>$ to compare 2 decimals (decimals in multiples of 10).

N. Compare two decimals to the tenths place with a value of less than 1.

O. Compare two decimals to the hundredths place with a value of less than 1.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9545. Measurement and Data

A. Complete a conversion table for length and mass within a single system.

B. Identify the appropriate units of measurement for different purposes in a real life context (e.g., measure a wall using feet, not inches).

C. Use the four operations to solve word problems involving distance, time, mass, and money and problems that require conversions from one unit to a smaller unit.

D. Select appropriate units for measurement (length, liquid volume, time, money).

E. Solve word problems using perimeter and area where changes occur to the dimensions of a figure.

F. Make a line plot to display a data set of measurements in fractions of a unit ($\frac{1}{2}$, $\frac{1}{4}$, $\frac{1}{8}$).

G. Solve problems involving addition and subtraction of fractions with like denominators by using information presented in line plots.

H. Recognize an angle in two-dimensional figures.

I. Use a protractor or angle ruler to sketch a given angle.

J. Measure right angles using a tool (e.g., angle ruler, protractor).

K. Given a picture of a right angle divided into two angles, find the measure of the missing angle when given the measure of one of the two angles.

L. Match an accurate addition and multiplication equation to a representation.

M. Apply the formulas for area and perimeter to solve real world problems.

N. Apply the distributive property to solve problems with models.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9547. Geometry

A. Recognize a point, line and line segment, rays in two-dimensional figures.

B. Recognize perpendicular and parallel lines in two-dimensional figures.

C. Recognize an angle in two-dimensional figures.

D. Classify two-dimensional shapes based on attributes (# of angles).

E. Categorize angles as right, acute, or obtuse.

F. Identify a right triangle.

G. Recognize a line of symmetry in a figure.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter F. Grade 5**§9549. Operations and Algebraic Thinking**

A. Evaluate an expression with one set of parentheses.

B. Write a simple numerical expression that indicates calculations with whole numbers.

C. Given 2 patterns involving the same context (e.g., collecting marbles) determine the 1st 5 terms and compare the values.

D. When given a line graph representing two arithmetic patterns, identify the relationship between the two.

E. Generate or select a comparison between two graphs from a similar situation.

F. Using provided table with numerical patterns, form ordered pairs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9551. Number and Operations in Base Ten

A. Compare the value of a number when it is represented in different place values of two 3 digit numbers.

B. Find the product of a number and a power of 10.

C. Read, write, or select a decimal to the hundredths place.

D. Read, write or select a decimal to the thousandths place.

E. Compare two decimals to the thousandths place with a value of less than 1.

F. Round decimals to the next whole number.

G. Round decimals to the tenths place.

H. Round decimals to the hundredths place.

I. Multiply whole numbers with up to 3-digits by numbers with up to 2-digits.

J. Find whole number quotients up to two dividends and two divisors.

K. Find whole number quotients up to four dividends and two divisors.

L. Solve 1 step problems using decimals.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9553. Number and Operations—Fractions

A. Add and subtract fractions with unlike denominators by replacing fractions with equivalent fractions (identical denominators).

B. Add or subtract fractions with unlike denominators.

C. Solve one-step word problems involving addition and subtraction of fractions with unlike denominators.

D. Solve a one-step word problem involving division of whole numbers leading to answers in the form of a fraction or mixed number.

E. Multiply a fraction by a whole or mixed number.

F. Determine whether the product will increase or decrease based on the multiplier.

G. Solve word problems involving multiplication of fractions and mixed numbers.

H. Divide unit fractions by whole numbers and whole numbers by unit fractions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9555. Measurement and Data

A. Convert measurements of time.

B. Convert standard measurements of length.

C. Convert standard measurements of mass.

D. Solve problems involving conversions of standard measurement units when finding area, volume, time lapse, or mass.

E. Given a data set of fractions with denominators 2, 4, or 8, create a line plot and use the information on the plot to solve problems.

F. Select a cube as the measurement unit for the volume.

G. Use cubes (blocks or other manipulatives) to create a solid figure and counts the number of cubes to determine its volume.

H. Use filling and multiplication to determine volume.

I. Apply formula to solve one step problems involving volume.

J. Decompose complex 3-D shapes into simple 3-D shapes to measure volume.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9557. Geometry

A. Locate the x and y axis on a graph.

B. Locate points on a graph.

C. Use order pairs to graph given points.

D. Find coordinate values of points in the context of a situation.

E. Recognize properties of simple plane figures.

F. Distinguish quadrilaterals by their properties.

Subchapter G. Grade 6

§9559. Ratios and Proportional Relationships

A. Write or select a ratio to match a given statement and representation.

B. Select or make a statement to interpret a given ratio.

C. Describe the ratio relationship between two quantities for a given situation.

D. Complete a statement that describes the ratio relationship between two quantities.

E. Write or select a ratio to match a given statement and representation.

F. Determine the unit rate in a variety of contextual situations.

G. Use ratios and reasoning to solve real-world mathematical problems (e.g., by reasoning about tables of equivalent ratios, tape diagrams, double number line diagrams, or equations).

H. Find a missing value (representations, whole numbers, common fractions, decimals to hundredths place, percent) for a given ratio.

I. Solve unit rate problems involving unit pricing.

J. Solve one step real world measurement problems involving unit rates with ratios of whole numbers when given the unit rate (3 inches of snow falls per hour, how much in 6 hours).

K. Calculate a percent of a quantity as rate per 100.

L. Complete a conversion table for length, mass, time, volume.

M. Analyze a table of equivalent ratios to answer questions.

N. Solve word problems involving ratios.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9561. The Number System

A. Solve one step problems involving division of fractions by fractions.

B. Divide multi-digit whole numbers.

C. Solve one step, addition, subtraction, multiplication, or division problems with fractions or decimals.

D. Find the greatest common multiple of two whole numbers less than or equal 25 and the least common multiple of two whole numbers less than or equal to 8.

E. Solve one step, addition, subtraction, multiplication, or division problems with fractions or decimals.

F. Find given points between -10 and 10 on both axes of a coordinate plane.

G. Label points between -10 and 10 on both axes of a coordinate plane.

H. Identify numbers as positive or negative.

I. Locate positive and negative numbers on a number line.

J. Plot positive and negative numbers on a number line.

K. Compare two numbers on a number line (e.g., $-2 > -9$).

L. Determine the meaning of absolute value.

M. Use coordinates and absolute value to find the distance between two coordinates with the same first coordinate or the same second coordinate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9563. Expressions and Equations

A. Identify what an exponent represents (e.g., $8^3 = 8 \times 8 \times 8$).

B. Solve numerical expressions involving whole number exponents.

C. Evaluate expressions from formulas containing exponents for specific values of their variables.

D. Use properties to produce equivalent expressions.

E. Evaluate whether or not both sides of an equation are equal.

F. Use substitute to determine which values from a specified set make an equation or inequality true.

G. Use variable to represent numbers and write expressions when solving real world problems.

H. Solve problems or word problems using up to three digit numbers and any of the four operations.

I. Solve real world, single step linear equations.

J. Given a real world problem, write an inequality.

K. Use variables to represent two quantities in a real-world problem that change in relationship to one another.

L. Analyze the relationships between the dependent and independent variables using graphs and tables, and relate to the equation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9565. Geometry

A. Apply the formula to find the area of triangles.

B. Decompose complex shapes (polygon, trapezoid, pentagon) into simple shapes (rectangles, squares, triangles) to measure area.

C. Find area of quadrilaterals.

D. Find area of triangles

E. Identify the appropriate formula (i.e., perimeter, area, volume) to use when measuring for different purposes in a real life context.

F. Use coordinate points to draw polygons.

G. Use coordinate points to find the side lengths of polygons that are horizontal or vertical.

H. Find the surface area of three dimensional figures using nets of rectangles or triangles.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9567. Statistics and Probability

A. Identify statistical questions and make a plan for data collection.

B. Find the range of a given data set.

C. Explain or identify what the mode represents in a set of data.

D. Explain or identify what the mean represents in a set of data.

E. Collect and graph data: bar graph, line plots, dot plots, histograms.

F. Select an appropriate statement about the range of the data for a given graph (bar graph, line plot) (i.e., range of data) up to 10 points.

G. Use measures of central tendency to interpret data including overall patterns in the data.

H. Solve for mean of a given data set.

I. Select statement that matches mean, mode, and spread of data for one measure of central tendency for a given data set.

J. Explain or identify what the median represents in a set of data.

K. Use measures of central tendency to interpret data including overall patterns in the data.

L. Solve for the median of a given data set.

M. Identify outliers, range, mean, median, and mode.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter H. Grade 7

§9569. Ratios and Proportional Relationships

A. Find unit rates given a ratio.

B. Determine unit rates associated with ratios of lengths, areas, and other quantities measured in like units.

C. Solve one step problems involving unit rates associated with ratios of fractions.

D. Identify the proportional relationship between two quantities.

E. Determine if two quantities are in a proportional relationship using a table of equivalent ratios or points graphed on a coordinate plane.

F. Use a rate of change or proportional relationship to determine the points on a coordinate plane.

G. Represent proportional relationships on a line graph.

H. Find percents in real world contexts.

I. Solve one step percentage increase and decrease problems.

J. Use proportions to solve ratio problems.

K. Solve word problems involving ratios.

L. Use proportional relationships to solve multistep percent problems.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9571. The Number System

A. Identify the additive inverse of a number (e.g., -3 and +3).

B. Identify the difference between two given numbers on a number line using absolute value.

C. Identify a representation of addition on a horizontal or vertical number line.

D. Solve problems requiring addition or subtraction of positive/negative numbers.

E. Solve multiplication problems with positive/negative numbers.

F. Solve division problems with positive/negative numbers.

G. Solve one step addition, subtraction, multiplication, division problems with fractions, decimals, and positive/negative numbers.

H. Solve two step addition, subtraction, multiplication, and division problems with fractions, decimals, or positive/negative numbers.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9573. Expressions and Equations

A. Add and subtract linear expressions.

B. Factor and expand linear expressions.

C. Identify an equivalent fraction, decimal and percent when given one of the three numbers.

D. Solve real-world multi-step problems using whole numbers.

E. Solve equations with 1 variable based on real-world problems.

F. Set up equations with 1 variable based on real-world problems.

G. Use variables to represent quantities in a real-world or mathematical problem, and construct simple equations and inequalities to solve problems by reasoning about the quantities.

H. Use a calculator to solve word problems leading to inequalities of the form $px + q > r$, $px + q \geq r$, $px + q < r$, or $px + q \leq r$ where p , q , and r are specific rational numbers.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9575. Geometry

A. Solve problems that use proportional reasoning with ratios of length and area.

B. Solve one step real world problems related to scaling.

C. Construct or draw plane figures using properties.

D. Describe the two-dimensional figures that result from a decomposed three-dimensional figure.

E. Apply formula to measure area and circumference of circles.

F. Identify supplementary angles.

G. Identify complimentary angles.

H. Identify adjacent angles.

I. Use angle relationships to find the value of a missing angle.

J. Add the area of each face of a prism to find surface area of three dimensional objects.

K. Find the surface area of three-dimensional figures using nets of rectangles or triangles.

L. Find area of plane figures and surface area of solid figures (quadrilaterals).

M. Solve one step real world measurement problems involving area, volume, or surface area of two and three-dimensional objects.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9577. Statistics and Probability

- A. Determine sample size to answer a given question.
- B. Analyze graphs to determine or select appropriate comparative inferences about two samples or populations.
- C. Make or select a statement to compare the distribution of 2 data sets.
- D. Identify the range (high/low), median(middle), mean, or mode of a given data set.
- E. Analyze graphs to determine or select appropriate comparative inferences about two samples or populations.
- F. Make or select an appropriate statements based upon two unequal data sets using measure of central tendency and shape.
- G. Describe the probability of events as being certain or impossible, likely, less likely or equally likely.
- H. State the theoretical probability of events occurring in terms of ratios (words, percentages, decimals).
- I. Make a prediction regarding the probability of an event occurring; conduct simple probability experiments.
- J. Compare actual results of simple experiment with theoretical probabilities.
- K. Determine the theoretical probability of multistage probability experiments (2 coins, 2 dice).
- L. Collect data from multistage probability experiments (2 coins, 2 dice).
- M. Compare actual results of multistage experiment with theoretical probabilities.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter I. Grade 8

§9579. The Number System

- A. Identify π as an irrational number.
- B. Round irrational numbers to the hundredths place.
- C. Use approximations of irrational numbers to locate them on a number line.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9581. Expressions and Equations

- A. Use properties of integer exponents to produce equivalent expressions.
- B. Find the square roots of perfect squares and cube roots of whole numbers less than 100.
- C. Rewrite very large or very small quantities as a single digit times an integer power of 10.
- D. Convert a number expressed in scientific notation as number in standard form for numbers no greater than 10,000.
- E. Perform operations with numbers expressed in scientific notation.

- F. Represent proportional relationships on a line graph.
 - G. Write the equation of a line intercepting the y-axis at b as $y = mx + b$.
 - H. Solve linear equations with one variable.
 - I. Solve systems of two linear equations in two variables and graph the results.
 - J. Solve real world and mathematical problems leading to two linear equations in two variables.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9583. Functions

- A. Distinguish between functions and non-functions, using equations, graphs, or tables.
- B. Compare properties of two functions each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions). For example, given a linear function represented by a table of values and a linear function represented by an algebraic expression, determine which function has the greater rate of change.
- C. Given two graphs, describe the function as linear and not linear.
- D. Identify the rate of change (slope) and initial value (y-intercept) from graphs.
- E. Given a verbal description of a situation, create or identify a graph to model the situation.
- F. Given a graph of a situation, generate a description of the situation.
- G. Describe or select the relationship between the two quantities Given a line graph of a situation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9585. Geometry

- A. Recognize a rotation, reflection, or translation of a figure.
- B. Recognize that lengths of line segments and measures of angles do not change when rotated, reflected or translated.
- C. Recognize that lines are taken to lines and parallel lines are taken to parallel lines when rotated, reflected or translated.
- D. Recognize congruent and similar figures.
- E. Identify a rotation, reflection, or translation of a plane figure when given coordinates.
- F. Recognize congruent and similar figures.
- G. Given two similar two-dimensional figures, show or describe a sequence that exhibits the similarity between them.
- H. Use angle relationships to find the value of a missing angle.
- I. Create a model of the Pythagorean Theorem using areas of squares with a right triangle whose side lengths are 3, 4 and 5 units.
- J. Apply the Pythagorean theorem to determine lengths/distances in real-world situations.
- K. Find the hypotenuse of a two-dimensional right triangle (Pythagorean Theorem).
- L. Find the missing side lengths of a two-dimensional right triangle (Pythagorean Theorem).

M. Apply the Pythagorean Theorem to find the distance between two points in a coordinate system.

N. Apply the formula to find the volume of 3-dimensional shapes (i.e., cubes, spheres, and cylinders).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9587. Statistics and Probability

A. Graph bivariate data using scatter plots and identify possible associations between the variables.

B. Using box plots and scatter plots, identify data points that appear to be outliers.

C. Analyze displays of bivariate data to develop or select appropriate claims about those data.

D. Distinguish between a linear and non-linear association when analyzing bivariate data on a scatter plot.

E. Interpret the slope and the y-intercept of a line in the context of a problem.

F. Construct a two-way table summarizing data on two categorical variables collected from the same subjects; identify possible association between the two variables.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter J. Algebra I

§9589. Number and Quantity

A. Explain the pattern for the sum or product for combinations of rational and irrational numbers.

B. Determine the necessary unit(s) to use to solve real-world problems.

C. Solve real-world problems involving units of measurement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9591. Algebra

A. Factor a quadratic expression.

B. Understand the definition of a polynomial.

C. Understand the concepts of combining like terms and closure.

D. Add, subtract, and multiply polynomials and understand how closure applies under these operations.

E. Find the zeros of a polynomial when the polynomial is factored.

F. Translate a real-world problem into a one variable linear equation.

G. Solve multi-variable formulas or literal equations, for a specific variable.

H. Transform a quadratic equation written in standard form to an equation in vertex form $(x-p)=q^2$ by completing the square.

I. Derive the quadratic formula by completing the square on the standard form of a quadratic equation.

J. Solve quadratic equations in one variable by simple inspection, taking the square root, factoring, and completing the square.

K. Solve systems of equations using the elimination method (sometimes called linear combinations).

L. Solve a system of equations by substitution (solving for one variable in the first equation and substitution it into the second equation).

M. Solve systems of equations using graphs.

N. Understand that all solutions to an equation in two variables are contained on the graph of that equation.

O. Explain why the intersection of $y = f(x)$ and $y = g(x)$ is the solution of the equation $f(x) = g(x)$ for any combination of linear or exponential. Find the solution(s) by: Using technology to graph the equations and determine their point of intersection, Using tables of values, or Using successive approximations that become closer and closer to the actual value.

P. Graph the solutions to a linear inequality in two variables as a half-plane, excluding the boundary for non-inclusive inequalities.

Q. Graph the solution set to a system of linear inequalities in two variables as the intersection of their corresponding half-planes.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9593. Statistics and Probability

A. Use descriptive stats; range, median, mode, mean, outliers/gaps to describe the data set.

B. Compare means, median, and range of 2 sets of data.

C. Represent data on a scatter plot to describe and predict.

D. Select an appropriate statement that describes the relationship between variables.

E. Interpret the rate of change using graphical representations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter K. Algebra II

§9595. Number and Quantity

A. Rewrite expressions that include rational exponents.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9596. Algebra

A. Represent quantities and expressions that use exponents.

B. Use the formula to solve real world problems such as calculating the height of a tree after n years given the initial height of the tree and the rate the tree grows each year.

C. Understand and apply the Remainder Theorem.

D. Find the zeros of a polynomial when the polynomial is factored.

E. Prove polynomial identities by showing steps and providing reasons.

F. Illustrate how polynomial identities are used to determine numerical relationships. For example the polynomial identity $(a + b)^2 = a^2 + 2ab + b^2$ can be used to rewrite $(25)^2 = (20 + 5)^2 = 20^2 + 2(20 \cdot 5) + 5^2$.

G. Rewrite rational expressions, $a(x)/b(x)$, in the form $q(x) + r(x)/b(x)$ by using factoring, long division, or synthetic division.

H. Translate a real-world problem into a one variable linear equation.

I. Solve quadratic equations in one variable by simple inspection, taking the square root, factoring, and completing the square.

J. Solve systems of equations using the elimination method (sometimes called linear combinations).

K. Solve a system of equations by substitution (solving for one variable in the first equation and substitution it into the second equation).

L. Solve systems of equations using graphs.

M. Solve a system containing a linear equation and a quadratic equation in two variables graphically and symbolically.

N. Explain why the intersection of $y = f(x)$ and $y = g(x)$ is the solution of the equation $f(x) = g(x)$ for any combination of linear or exponential. Find the solution(s) by: Using technology to graph the equations and determine their point of intersection, Using tables of values, or using successive approximations that become closer and closer to the actual value.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9597. Statistics and Probability

A. Use descriptive stats; range, median, mode, mean, outliers/gaps to describe the data set.

B. Represent data on a scatter plot to describe and predict.

C. Select an appropriate statement that describes the relationship between variables.

D. Determine what inferences can be made from statistics.

E. Make or select an appropriate statement(s) about findings.

F. Apply the results of the data to a real world situation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

Subchapter L. Geometry

§9598. Geometry

A. Construct, draw or recognize a figure after its rotation, reflection, or translation.

B. Make formal geometric constructions with a variety of tools and methods.

C. Determine the dimensions of a figure after dilation.

D. Determine if two figures are similar.

E. Describe or select why two figures are or are not similar.

F. Use definitions to demonstrate congruency and similarity in figures.

G. Use the reflections, rotations, or translations in the coordinate plane to solve problems with right angles.

H. Apply the formula to the area of a sector (e.g., area of a slice of pie).

I. Apply the formula of geometric figures to solve design problems (e.g., designing an object or structure to satisfy physical restraints or minimize cost).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:

§9599. Statistics and Probability

A. Select or make an appropriate statement based on a two-way frequency table.

B. Select or make an appropriate statement based on real world examples of conditional probability.

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

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, March 11, 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 127—LEAP Connect Assessment, Louisiana Connectors for Students with Significant Cognitive Disabilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 329 of the 2015 Regular Legislative Session provided for the review and development of state content standards for English Language Arts (ELA) and mathematics. As a requirement and final step to the Louisiana Student Standards for English Language Arts and Mathematics, which were enacted in the summer of 2016, the LDE worked in partnership with Louisiana special education experts to establish a set of standards alignments. These alignments ensure that the standards, which are found in Bulletin 127, LEAP Alternate Assessment, Level 1 (LPAA) Extended Standards, are fully aligned to the Louisiana Student Standards and comply with the federal requirements of the Every Student Succeeds Act.

The proposed action will result in increased costs and workload adjustments to local school districts (LEA). While some resources may be made available by the LDE and from some publishers at no or very low cost, not all local school systems use those vendors. Each LEA is required to provide instruction aligned to BESE approved standards and has the autonomy and flexibility to develop, adopt, and utilize instructional materials that best support their students' achievement of standards. Most districts utilize multiple vendors to develop instructional materials, supplements, and curricula guides, as well as benchmark assessment, including those tied to student learning targets for the school and teacher accountability programs, all of which vary across systems. Some districts develop their own materials and/or assessments.

Furthermore, districts may incur costs for teachers attending training provided by the LDE and for providing additional training for all other teachers in order to implement the standards successfully.

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
Deputy Superintendent
1702#014

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Electronic Notice of Air Permit Actions
(LAC 33:III.Chapter 5)(AQ368)

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 Air regulations, LAC 33:III.504.E, 509.Q and W, and 531.A (AQ368).

The Rule will allow LDEQ to provide public notice of all air permit actions, including title V and prevention of significant deterioration (PSD) permits, by posting notices on the department's website (www.deq.louisiana.gov) instead of by publishing advertisements in *The Advocate* and in local newspapers. The Rule will also allow LDEQ to make certain documents available via the department's electronic document management system (EDMS) rather than at a physical location in the area of a proposed source or modification. On October 18, 2016, the Environmental Protection Agency (EPA) promulgated a rule entitled "Revisions to Public Notice Provisions in Clean Air Act Permitting Programs" (81 FR 71613). The federal rule removes the mandatory requirement to provide public notice of proposed air permits (and certain other related actions) via publication of an advertisement in a newspaper. Permitting authorities may now satisfy the public participation requirements of the Act by providing electronic notice ("e-notice") of proposed air permits. When e-notice is provided, the federal rule also requires permitting authorities to provide electronic access to proposed permits.

The federal rule also clarifies that the provisions under 40 CFR 51 requiring permitting authorities to make certain elements of the administrative record available in the area of a proposed source or modification may be satisfied by making such materials available at either a physical location or on a public website identified by the permitting authority. The basis and rationale for this Rule are to allow for "e-

notice” of air permit actions. The Rule is anticipated to save LDEQ \$61,382.75 annually (based on 2015 expenditures). This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes

A. - E.3.b. ...

4. The department shall consider any analysis with respect to visibility impacts provided by the federal land manager if it is received within 30 days from the date a complete application is given to the federal land manager. In any case where the department disagrees with the federal land manager’s analysis, the department shall either explain its decision to the federal land manager or give notice as to where the explanation can be obtained. In the case where the department disagrees with the federal land manager’s analysis, the department will also explain its decision or give notice to the public by means of a notice published on the department’s website as to where the decision can be obtained.

E.5. - M.5.b. ...

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 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR 37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012), LR 41:2135 (October 2015), LR 42:403 (March 2016), LR 43:

§509. Prevention of Significant Deterioration

A. - Q.2.a. ...

b. make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination. This requirement may be met by making these materials available at a physical location or on the department’s electronic document management system;

c. notify the public, by notice posted on the department’s website, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as through written public comment:

i. the notice shall be available for the duration of the public comment period and shall include:

- (a) the notice of public comment;
- (b) the proposed permit;
- (c) information on how to access the administrative record for the proposed permit; and
- (d) information on how to request and/or attend a public hearing on the proposed permit;

d. - e. ...

f. consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. The administrative authority shall make all comments available for public inspection in the same physical locations or on the same website where the administrative authority made available preconstruction information relating to the proposed source or modification;

g. ...

h. notify the applicant in writing of the final determination and make such notification available for public inspection at the same location or on the same website where the administrative authority made available preconstruction information and public comments relating to the source.

3. The department’s website shall be used to provide notice of all permits subject to notice under this Section. Web publication may be supplemented by other noticing methods at the discretion of the department.

R. - W.3. ...

4. If the administrative authority rescinds a permit under this Subsection, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission on the department’s website shall be considered adequate notice.

X. - AA.15.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), amended LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), amended by the Office of the Secretary, Legal Division, LR 38:3163 (December 2012), LR 39:1280 (May 2013), LR 42:402 (March 2016), LR 42:564 (April 2016), LR 43:

§531. Public Notice and Affected State Notice

A. - A.2.c. ...

3. Each public notice provided under Paragraph A.2 of this Section shall meet the following requirements.

- a. Methods of Notice

i. The notice shall be given by posting the notice and the proposed permit on the department's website for the duration of the public comment period.

ii. The notice shall be given by mail to persons included on the appropriate mailing list developed and maintained by the permitting authority. The permitting authority may update the mailing list from time to time by requesting written indication of continued interest from those listed. The permitting authority may delete from the list the name of any person who fails to respond to such a request within a reasonable timeframe.

b. Such notice shall identify:

i. the title and address of the permitting authority; the name and address of the permittee;

ii. the name and physical location of the affected facility;

iii. the activities involved in the permit action;

iv. the emissions change involved;

v. the name or title, address, and telephone number of an LDEQ employee from whom additional information may be obtained, including copies of the proposed permit, the application, and all supporting materials;

vi. a brief description of the appropriate comment procedures; and

vii. the time and place of any hearing that may be held with a statement of procedures to request a hearing.

c. ...

d. The department's website shall be used to provide notice of all permits subject to notice under this Section. Web publication may be supplemented by other noticing methods at the discretion of the department.

A.4. - B.3. ...

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 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1841 (October 2006), amended by the Office of the Secretary, Legal Division, LR 43:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ368. Such comments must be received no later than April 5, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ368.

These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on March 29, 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: Electronic Notice of Air Permit Actions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is anticipated to save the Louisiana Department of Environmental Quality (LDEQ) \$61,382.75 annually (based on 2015 expenditures).

The Environmental Protection Agency's rule entitled "Revisions to Public Notice Provisions in Clean Air Act Permitting Programs", removes the mandatory requirement to provide public notice of proposed air permits via publication of an advertisement in a newspaper. This will allow LDEQ to provide public notice of all air permit actions by posting notices on the department's website instead of publishing advertisements in newspapers. Because the department currently provides notice of proposed permits on its website, no increase in workload or additional paperwork is anticipated as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be a reduction in revenues to the official state journal as well as other local newspapers that would advertise the notice. Actual receipts in 2015 were \$61,382.75.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson
General Counsel
1702#029

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Hazardous Waste Authorization
Resource Conservation and Recovery Act (RCRA)
(LAC 33:V.108, 109, 309, 517, 537, 705, 1103,
1107, 1109, 1515, 1516, 1529, 1751, 1903, 1907,
2201, 2203, 2207, 2209, 2211, 2216, 2221, 2227,
2231, 2239, 2241, 2243, 2245, 2299, 3001, 3203,
3301, 3511, 4037, 4053, 4071, 4085, 4301, 4399,
4407, 4501, 4513, and 4999)(HW107)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.108, 109, 309, 517, 537, 705, 1103, 1107, 1109, 1515, 1516, 1529, 1751, 1903, 1907, 2201, 2203, 2207, 2209, 2211, 2216, 2221, 2227, 2231, 2239, 2241, 2243, 2245, 2299 Tables 4 and 12, 3001, 3203, 3301, 3511, 4037, 4053, 4071, 4085, 4301, 4399, 4407, 4501, 4513 and 4999, Appendix F (HW107).

This Rule makes amendments to the regulations to correct errors and make clarifications in regards to certain definitions, notification, permitting, financial assurance, generator waste analysis, recordkeeping, and notice requirements, and required approval by the EPA administrator for certain land disposal restrictions.

This Rule is in response to EPA's review of the state's authorized program. The amendments are necessary to maintain equivalency and authorization for the state's hazardous waste program. The basis and rationale for this Rule are to maintain EPA's authorization of the state's hazardous waste program. 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

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

A. - F.3.g. ...

4. notify the department in accordance with LAC 33:V.105.A and comply with LAC 33:V.1105;

5. any and all fees required to be paid by conditionally exempt small quantity generators in accordance with LAC 33:V.5137 must be paid; and

6. shall label or clearly mark each container accumulating acute hazardous waste with the words "Hazardous Waste" or with other words that identify the contents of the container.

G. - G.3.g. ...

4. notify the department in accordance with LAC 33:V.105.A.1 and comply with LAC 33:V.1105;

5. any and all fees required to be paid by conditionally exempt small quantity generators in accordance with LAC 33:V.5137 must be paid; and

6. shall label or clearly mark each container accumulating acute hazardous waste with the words "Hazardous Waste" or with other words that identify the contents of the container.

H. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:706, 716 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 32:606 (April 2006), LR 36:2554 (November 2010), LR 38:774 (March 2012), amended by the Office of the Secretary, Legal Division, LR 43:

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Consignee—the ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be sent.

* * *

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:

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

§309. Conditions Applicable to All Permits

Each permit shall include permit conditions necessary to achieve compliance with the Act and these regulations, including each of the applicable requirements specified in

LAC 33:V.Subpart 1. In satisfying this provision, the administrative authority may incorporate applicable requirements of LAC 33:V.Subpart 1 directly into the permit or establish other permit conditions that are based on LAC 33:V.Subpart 1. The following conditions apply to all hazardous waste permits. All conditions applicable to permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

A. - L.7.d. ...

8. Manifest Discrepancy Report. If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen days, the permittee must submit a report including a copy of the manifest to the Office of Environmental Services.

L.9. - M. ...

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 16:220 (March 1990), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2453 (October 2005), LR 33:2099 (October 2007), LR 43:

Chapter 5. Permit Application Contents

Subchapter D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the Sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a Louisiana registered professional engineer. If a Section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

A. - T.4.c. ...

i. delineates the extent of the plume on the topographic map such as required under LAC 33:V.517.B; and

T.4.c.ii. - W. ...

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 10:280 (April 1984), LR 13:433 (August 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), LR 24:1691 (September 1998), LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), LR 25:1799 (October 1999), repromulgated LR 26:1608 (August 2000), repromulgated LR 26:2003 (September 2000), amended LR 27:287 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1625 (August 2007), amended by the Office of the Secretary, Legal Division, LR 43:

Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (Boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators.)

A. - B.2.e.iv. ...

f. Repealed.

g. - k. ...

l. Repealed.

B.3. - D.3. ...

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 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818, 832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), LR 27:292 (March 2001), LR 29:320 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2455 (October 2005), LR 33:2101 (October 2007), LR 34:622 (April 2008), LR 34:1012 (June 2008), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits

Subchapter A. Permits

§705. Issuance and Effective Date of Permit

A. ...

B. A final permit decision (or a decision to deny a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706) shall become effective upon issuance, unless:

1. - 3. ...

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 14:790 (November 1988), LR 15:181 (March 1989), LR 16:614 (July 1990), amended by the Office of the Secretary, Legal Division, LR 38:2769 (November 2012), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 11. Generators

Subchapter A. General

§1103. Hazardous Waste Determination

A person who generates a *solid waste*, as defined in LAC 33:V.109, shall determine if that waste is a hazard.

A. - B.2. ...

C. He shall then determine if the waste is listed as a hazardous waste in LAC 33:V.Chapter 49.

NOTE: Even if the waste is listed, the generator still has an opportunity under LAC 33:V.105.M to demonstrate to the administrative authority that the waste from his particular facility or operation is not a hazardous waste.

D. If the waste is determined to be hazardous, the generator shall refer to other parts of LAC 33:V.Subpart 1 for possible exclusions or prohibitions pertaining to management of his or her specific wastes.

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 15:378 (May 1989), LR 17:658 (July 1991), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of the Secretary, Legal Division, LR 43:

§1107. The Manifest System

A. - B.1.a. ...

b. the name and active EPA identification number of each transporter;

B.1.c. - G.1.b. ...

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 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:89 (January 2007), repromulgated LR 33:281 (February 2007), amended LR 33:2101 (October 2007), LR 34:622 (April 2008), LR 38:775 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:566, LR 43:

§1109. Pre-Transport Requirements

A. - D. ...

E. Accumulation Time

1. A generator who generates 1,000 kg or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in LAC 33:V.4901.B or E in a calendar month, may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

a. the waste is placed:

i. in containers and the generator complies with the applicable requirements of LAC 33:V.2103, 2105, 2107, 2109, 2113, 2115, and Chapter 43.Subchapters Q, R, and V; and/or

1.a.ii. - 6. ...

7. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less

without a permit or without having interim status provided that:

a. the generator complies with the requirements of LAC 33:V.2103, 2105, 2107, 2109, and 2115;

7.b. - 11. ...

12. A generator accumulating F006 waste in accordance with Paragraphs E.10 and 11 of this Section who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator shall transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an operator of a storage facility and is subject to the requirements of LAC 33:V.Chapters 11, 15-21, 23-29, 31-37, and 43 (except LAC 33:V.4301. E and F) and the permit requirements of LAC 33:V.Chapters 3-7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by the administrative authority if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the administrative authority on a case-by-case basis.

E.13. - F.2. ...

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 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709, 716 (May 2001), LR 27:1014 (July 2001), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:2102 (October 2007), LR 34:622 (April 2008), LR 36:1235 (June 2010), repromulgated LR 36:1536 (July 2010), amended LR 38:776 (March 2012), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1515. Personnel Training

A. Instruction Program

1. - 3.f. ...

4. The facility operator shall conduct training sessions at regular intervals for appropriate facility personnel which includes the facility's contingency/emergency response teams, in routine plant operation, plant layout, location of possible hazards, emergency equipment location and operation, the evacuation plan and route, power and waste stream cut-offs, communications equipment and phone numbers of all required contacts, and other critical information and procedures. The facility operator shall

afford representatives of local fire and police departments and local emergency response teams, the opportunity to participate in periodic training sessions.

A.5. - 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 by the Office of the Secretary, Legal Affairs Division, LR 34:993 (June 2008), amended by the Office of the Secretary, Legal Division, LR 43:

§1516. Manifest System for Treatment, Storage, and Disposal (TSD) Facilities

A. - B.2.c. ...

d. within 30 days after the delivery, send a copy of the signed and dated manifest, or a signed and dated copy of the shipping paper, if the manifest has not been received within 30 days after delivery, to the generator; and

COMMENT: LAC 33:V.1107.D.3 requires the generator to send three copies of the manifest to the facility when hazardous waste is sent in bulk shipment by water.

2.e. - 4. ...

5. If a facility receives hazardous waste imported from a foreign source, the receiving facility shall mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within 30 days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460-0001.

6. A facility shall determine whether the consignment state for a shipment regulates any additional wastes, beyond those regulated federally, as hazardous wastes under its state hazardous waste program. Facilities shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

C. - K. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:825 (May 2006), amended LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:1012 (June 2008), LR 38:777, 789 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:568 (April 2016), LR 43:

§1529. Operating Record and Reporting Requirements

A. - D.10. ...

E. Additional Reports. In addition to submitting the annual reports and unmanifested waste reports described in LAC 33:V.1516.D and Subsection D of this Section, the owner or operator shall also report to the administrative authority:

1. - 3. ...

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 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services,

Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:993 (June 2008), LR 34:1895 (September 2008), LR 35:1879 (September 2009), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 17. Air Emission Standards

Subchapter C. Air Emission Standards for Tanks,

Surface Impoundments, and Containers

§1751. Standards: General

A. - C.4.a. ...

b. the organic hazardous constituents in the waste have been treated by the treatment technology established by the EPA for the waste in LAC 33:V.2227.A or have been removed or destroyed by an equivalent method of treatment approved by EPA pursuant to 40 CFR 268.42(b);

C.5. - D.5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1702 (September 1998), LR 25:440 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 19. Tanks

§1903. Assessment of Existing Tank System's Integrity

A. For each existing tank system that does not have secondary containment meeting the requirements of LAC 33:V.1907.B-I, the owner or operator shall determine that the tank system is not leaking or is unfit for use. Except as provided in paragraph C of this Section, the owner or operator shall obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified professional engineer, in accordance with LAC 33:V.513, that attests to the tank system's integrity by November 20, 1988. Tanks excluded from permitting requirements under LAC 33:V.1109.E.1 must have an assessment as described in this Section by November 20, 1990.

B. - B.5.b. ...

C. Tank systems that store or treat materials that become hazardous wastes subsequent to July 14, 1986, shall conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.

D. If, as a result of the assessment conducted in accordance with LAC 33:V.1903.A, a tank system is found to be leaking or unfit for use, the owner or operator shall comply with the requirements of LAC 33:V.1913.

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 16:614 (July 1990), LR 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:994 (June 2008), amended by the Office of the Secretary, Legal Division, LR 43:

§1907. Containment and Detection of Releases

A. - G.2.c.iv. ...

v. the existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality; and

d. the potential adverse effects of a release on the land surrounding the tank system, taking into account:

- i. the patterns of rainfall in the region; and
- ii. the current and future uses of the surrounding land.

G.3. - 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:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

A. - G.2. ...

3. Repealed.

G.4. - I.5.f. ...

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 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3117 (December 2005), amended by the Office of the Secretary, Legal Division, LR 43:

§2203. Definitions Applicable to This Chapter

A. When used in this Chapter the following terms have the meanings given below.

* * *

Inorganic Metal-Bearing Waste—a waste for which the department has established treatment standards for metal hazardous constituents and which does not otherwise contain significant organic or cyanide content as described in LAC 33:V.2207.C.1, and is specifically listed in LAC 33:V.2299.Appendix, Table 5.

* * *

B. ...

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 15:378 (May 1989), amended LR 16:221 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 25:442 (March 1999),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000), amended by the Office of the Secretary, Legal Division, LR 43:

§2207. Dilution Prohibited as a Substitute for Treatment

A. - B. ...

C. Combustion of the hazardous waste codes listed in LAC 33:V.2299.Appendix, Table 5 is prohibited, unless the waste, at the point of generation, or after any bona fide treatment, such as cyanide destruction prior to combustion, can be demonstrated to comply with one or more of the following criteria (unless otherwise specifically prohibited from combustion):

C.1. - D. ...

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 25:443 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§2209. Waste-Specific Prohibitions—Wood Preserving Wastes

A. - B. ...

C. Between September 20, 1998 and May 12, 1999, soil and debris contaminated with F032, F034, F035, and radioactive waste mixed with F032, F034, and F035 may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2).

D. - 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 15:378 (May 1989), amended LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999), amended by the Office of the Secretary, Legal Division 43:

§2211. Waste-Specific Prohibitions—Dioxin-Containing Wastes

A. - B.3. ...

C. Between the effective date of these regulations and November 8, 1990, wastes which are contaminated soil or debris resulting from a response action taken under section 104 or 106 of CERCLA or a corrective action taken under subtitle C of RCRA may be land disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2) and all other applicable requirements of LAC 33:V.Chapter 15 or Chapter 43.

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 15:378 (May 1989), amended LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1725 (September 1998),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§2216. Waste-Specific Prohibitions—Toxicity

Characteristic Metal Wastes

A. - C. ...

D. Between April 20, 1999 and May 26, 2000, newly identified characteristic wastes from elemental phosphorus processing, radioactive waste mixed with EPA hazardous waste numbers D004-D011, wastes that are newly identified (i.e., wastes, soil, or debris identified as hazardous by the toxicity characteristic leaching procedure, but not the extraction procedure) or mixed with newly identified characteristic mineral processing wastes, soil, or debris may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h).

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:443 (March 1999), repromulgated LR 25:855 (May 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§2221. Schedule of Wastes Identified or Listed after November 8, 1984

A. - B. Repealed.

C. - E.2. ...

3. Between March 20, 1995 and September 19, 1996, the wastes included in LAC 33:V.2221.E.2 may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2).

E.4. - F.4. ...

5. Between July 8, 1996, and April 20, 1998, the wastes included in 40 CFR 268.39(a), (c), and (d) may be disposed in a landfill or surface impoundment, only if such unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2).

6. - 7. ...

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 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 24:1725 (September 1998), LR 25:444 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000), amended by the Office of the Secretary, Legal Division, LR 43:

§2227. Treatment Standards Expressed as Specified Technologies

A. ...

B. Repealed.

NOTE: Persons demonstrating an alternative treatment method must apply to the EPA administrator or designee in accordance with 40 CFR 268.42(b).

C. - D. ...

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2457 (October 2005), LR 33:2107 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

§2231. Variance from a Treatment Standard

A. - F. Repealed.

G. - M. ...

NOTE: Persons obtaining a non-site-specific variance from a treatment standard must submit a petition to the EPA administrator or designee in accordance with 40 CFR 268.44.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2476 (November 2000), LR 27:1015 (July 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005), LR 33:2108 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

§2239. Procedures for Case-by-Case Extensions of an Effective Date

NOTE: Persons obtaining a case-by-case extension of the effective date of any land disposal prohibition must submit a petition to the EPA administrator or designee in accordance with 40 CFR 268.5.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005), LR 33:2108 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

§2241. Exemptions to Allow Land Disposal of a Prohibited Waste except by Deep Well Injection

NOTE: Persons obtaining an exemption to allow land disposal except by deep well injection of a prohibited hazardous waste in a particular unit or units must submit a petition to the EPA administrator or designee in accordance with 40 CFR 268.6.

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 15:378 (May 1989), amended LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1727 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2477 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2458 (October 2005), LR 33:2109 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

§2243. Administrative Procedures for Exemptions under LAC 33:V.2271 and No-Alternative Determinations under LAC 33:V.2273

A. Before making a final decision on the exemption or determination request, the department will provide the person requesting the exemption or determination and the public, through a newspaper notice in the official state journal and the local newspaper in the affected area, the cost of which will be charged to the person requesting the exemption or determination, the opportunity to submit written comments on the request on the conditions of the exemption or determination, allowing a 45-day comment period. The notices referred to in this Section will be provided in the local newspaper in three separate issues; however, the comment or notice period shall begin with the notice in the official state journal. The administrative authority will also, in response to a request or at his or her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the exemption or determination request. The administrative authority will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments.)

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Division, LR 43:

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. - K. ...

L. Small quantity generators with tolling agreements pursuant to LAC 33:V.1107.A.4 shall comply with the applicable notification and certification requirements of paragraph (A) of this section for the initial shipment of the waste subject to the agreement. Such generators shall retain an on-site copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of an unresolved enforcement action regarding the regulated activity or as requested by the administrative authority.

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 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), LR 27:295 (March 2001), LR 27:711 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:2109 (October 2007), LR 34:996 (June

2008), amended by the Office of the Secretary, Legal Division, LR 43:

§2299. Appendix—Tables 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Table 2, Treatment Standards for Hazardous Wastes. ...

Footnote 1.-10. ...

11. For these wastes, the definition of CMBST is limited to: (1) combustion units operating under LAC 33:V.Chapter 30, (2) combustion units permitted under LAC 33:V.Chapter 31, or (3) combustion units operating under LAC 33:V.Chapter 43.Subchapter N, which have obtained a determination of equivalent treatment from EPA under 40 CFR 268.42(b).

Footnote 12. ...

* * *

Table 4, Best Demonstrated Available Technology Land Disposal Prohibitions References - Notes. Repealed.

* * *

Table 12, Metal-Bearing Wastes Prohibited From Dilution in a Combustion Unit According to LAC 33:V.2207.C¹. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 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 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:834 (September 1996), LR 23:566 (May 1997), LR 24:301 (February 1998), LR 24:670 (April 1998), LR 24:1732 (September 1998), LR 25:451 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 27:295 (March 2001), LR 29:322 (March 2003), LR 30:1682 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:828 (May 2006), LR 32:1843 (October 2006), LR 34:625 (April 2008), LR 34:1014 (June 2008), LR 38:777 (March 2012), amended by the Office of the Secretary, Legal Division, LR 39:2487, 2492 (September 2013), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

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

e. the applicable requirements of LAC 33:V.Chapters 15, 17 (Subchapters B and C), 33, 35, 37, and 43 (Subchapters A-G, R, and V), 4301.A-D, F, H, and J, and 4306.

B.3. - H. ...

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821, 835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:607 (April 2006), LR 34:628 (April 2008), LR 34:1014 (June 2008) amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 32. Miscellaneous Units

§3203. Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner

that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions shall include those requirements of LAC 33:V.Chapters 3, 5, 7, 17, 19, 21, 23, 25, 27, 29, 31, 4301.G, I, 4302, 4303 and 4305, all other applicable requirements of LAC 33:V.Subpart 1, and of 40 CFR 63 subpart EEE and 40 CFR 146 that are appropriate for the miscellaneous unit being permitted. Protection of human health and the environment includes, but is not limited to:

A. - C.7. ...

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 16:399 (May 1990), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1742 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:302 (March 2001), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 33. Groundwater Protection

§3301. Applicability

A. - G.1. ...

2. it is not necessary to apply the groundwater monitoring and corrective action requirements of LAC 33:V.3303-3321 because alternative requirements will protect human health and the environment.

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 10:280 (April 1984), LR 10:496 (July 1984), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 35. Closure and Post-Closure

Subchapter A. Closure Requirements

§3511. Closure Plan; Amendment of Plan

A. - C.2.b. ...

c. in conducting partial or final closure activities, unexpected events require a modification of the approved closure plan; or

d. the owner or operator requests the administrative authority to apply alternative requirements to a regulated unit under LAC 33:V.3301.G, 3501.D, and/or 3701.D.

3. - 4. ...

5. Repealed.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et. seq. and specifically 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 14:791 (November 1988), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 17:478 (May 1991), LR

18:1256 (November 1992), LR 18:1375 (December 1992), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:480 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2486 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2465 (October 2005), LR 33:2116 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 40. Used Oil

Subchapter D. Standards for Used Oil Transporter and Transfer Facilities

§4037. Tracking

A. Acceptance. Used oil transporters shall keep a record of each used oil shipment accepted for transport. This record shall be in the form of a used oil reuse/recycle manifest. Records for each shipment shall include:

A.1. - D. ...

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 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, LR 31:1573 (July 2005), amended by the Office of the Secretary, Legal Division, LR 43:

Subchapter E. Standards for Used Oil Processors and Re-Refiners

§4053. Tracking

A. Acceptance. Used oil processors/re-refiners shall keep a record of each used oil shipment accepted for processing/re-refining. These records shall take the form of a used oil reuse/recycle manifest. Records for each shipment shall include the following information:

1. - 6. ...

B. Delivery. Used oil processor/re-refiners shall keep a record of each shipment of used oil that is shipped to a used oil burner, processor/re-refiner, or disposal facility. These records shall take the form of a used oil reuse/recycle manifest. Records for each shipment shall include the following information:

B.1. - C. ...

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 21:266, 267 (March 1995), amended by the Office of the Secretary, Legal Division, LR 43:

Subchapter F. Standards for Used Oil Burners that Burn Off-Specification Used Oil for Energy Recovery

§4071. Tracking

A. Acceptance. Used oil burners shall keep a record of each used oil shipment accepted for burning. These records shall take the form of a used oil reuse/recycle manifest. Records for each shipment shall include the following information:

A.1. - B. ...

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 21:266, 267 (March 1995), amended by the Office of the Secretary, Legal Division, LR 43:

Subchapter G. Standards for Used Oil Fuel Marketers

§4085. Tracking

A. Off-Specification Used Oil Delivery. Any used oil marketer who directs a shipment of off-specification used oil to a burner shall keep a record of each shipment of used oil to that used oil burner. These records shall take the form of a used oil reuse/recycle manifest. Records for each shipment shall include the following information:

A.1. - C. ...

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 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:482 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 43. Interim Status

§4301. Purpose and Applicability

A. The purpose of interim status is to allow existing facilities to operate in an appropriate and responsible manner during the period of time required to process and review permit application or until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled. Interim status facilities shall, when required by the administrative authority, submit to the Office of Environmental Services a permit application in compliance with the requirements of these regulations. Failure to submit an application is a violation of interim status and will result in revocation of a facility's interim status designation. Once revoked the facility will be treated as an unpermitted facility and appropriate legal action will be taken.

B. Qualifying for Interim Status. Any person who owns or operates an "existing HWM facility" or a facility in existence on the effective date of statutory or regulatory requirement to have a RCRA permit shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

1. complied with the requirements of section 3010(a) of RCRA pertaining to notification of hazardous waste activity; and

COMMENT: Some existing facilities may not be required to file a notification under section 3010(a) of RCRA. These facilities may qualify for interim status by meeting paragraph (a)(2) of this section.

2. complied with the requirements of LAC 33:V.Chapter 5, Subchapter A governing submission of part I applications.

C. Except as provided in LAC 33:V.4719, the standards of this Chapter and of LAC 33:V.Chapter 26 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 3005(e) of RCRA and LAC 33:V.501 until either a permit is issued under section 3005 of RCRA or until applicable LAC 33:V.Chapter 43 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by section 3010(a) of RCRA and/or failed to file part A of the permit application as required by LAC 33:V.303.K and 501.C. These standards apply to all treatment, storage, and disposal of hazardous waste at these facilities after the effective date of these

regulations, except as specifically provided otherwise in this Chapter or LAC 33:V.Chapter 49.

COMMENT: As stated in section 3005(a) of RCRA, after the effective date of regulations under that section (i.e., LAC 33:V.Chapters 3, 5, and 7), the treatment, storage, and disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions, until final administrative disposition of the owner's and operator's permit application is made.

D. The requirements of this Chapter do not apply to:

1. a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act;

COMMENT: These LAC 33:V.Chapter 43 regulations do apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in Subsection C of this Section.

2. the owner or operator of a POTW which treats, stores, or disposes of hazardous waste;

COMMENT: The owner or operator of a facility under Paragraphs D.1 and 2 of this Section is subject to the requirements of LAC 33:V.Chapters 11, 15, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, and-37 to the extent they are included in a permit by rule granted to such a person under 40 CFR 122 and by 144.14.

3. a person who treats, stores, or disposes of hazardous waste in a state with a RCRA hazardous waste program authorized under subpart A or B of 40 CFR part 271, except that the requirements of this Chapter will continue to apply:

a. if the authorized state RCRA program does not cover disposal of hazardous waste by means of underground injection; or

b. to a person who treats, stores, or disposes of hazardous waste in a state authorized under subpart A or B of 40 CFR part 271 if the state has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage, or disposal of hazardous waste at his facility which are imposed in accordance with the Hazardous and Solid Waste Act Amendments of 1984. The requirements and prohibitions that are applicable until a state receives authorization to carry them out include all federal program requirements identified in 40 CFR 271.1.j;

4. the owner or operator of a facility permitted, licensed, or registered by the state to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.Subpart 1;

5. the owner and operator of a facility managing recyclable materials described in LAC 33:V.4105.A.1-3, except to the extent they are referred to in LAC 33:V.Chapter 40 or LAC 33:V.4139, 4141, 4143, or 4145;

6. a generator accumulating waste on-site in compliance with LAC 33:V.1109.E, except to the extent the requirements are included in LAC 33:V.1109.E;

7. a farmer disposing of waste pesticides from his own use in compliance with LAC 33:V.1101.D;

8. the owner or operator of a *totally enclosed treatment facility* (as defined in LAC 33:V.109);

9. the owner or operator of an *elementary neutralization unit* or *wastewater treatment unit* (as defined in LAC 33:V.109), provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 high TOC subcategory defined in LAC 33:V.2299.Appendix, Table 2, Treatment Standards for

Hazardous Wastes) or reactive (D003) waste to remove the characteristic before land disposal, the owner/operator shall comply with the requirements set out in LAC 33:V.4321.B;

10. except as provided in Subparagraph D.10.b of this Section;

a. a person engaged in treatment or containment activities during immediate response to any of the following situations:

- i. a discharge of a hazardous waste;
- ii. an imminent and substantial threat of a discharge of hazardous waste;
- iii. a discharge of a material that, when discharged, becomes a hazardous waste; or

iv. an immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an *explosives or munitions emergency response specialist* as defined in LAC 33:V.109;

b. an owner or operator of a facility otherwise regulated by this Chapter shall comply with all applicable requirements of LAC 33:V.Chapter 43, Subchapters C and D;

c. any person who is covered by Subparagraph D.10.b of this Section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Chapter and 40 CFR 122-124 for those activities; and

d. in the case of an explosives or munitions emergency response, if a federal, state, tribal, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

11. a transporter storing manifested shipments of hazardous waste in containers meeting the requirements of LAC 33:V.1109.A at a transfer facility for a period of 10 days or less;

12. the addition of absorbent material to waste in a *container* (as defined in LAC 33:V.109) or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container and LAC 33:V.4321.B.1 and LAC 33:V.Chapter 43, Subchapter H are complied with;

13. *universal waste handlers* and *universal waste transporters* (as defined in LAC 33:V.3813) handling the wastes listed below. These handlers are subject to regulation under LAC 33:V.Chapter 38, when handling the following universal wastes:

- a. batteries as described in LAC 33:V.3803;
- b. pesticides as described in LAC 33:V.3805;

c. mercury-containing equipment as described in LAC 33:V.3807;

d. lamps as described in LAC 33:V.3809;

e. electronics as described in LAC 33:V.3810; and

f. antifreeze as described in LAC 33:V.3811.

E. Facilities having interim status are subject to all applicable federal and state laws and regulations, including these regulations.

F. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in LAC 33:V.Chapter 22, and Chapter 22 standards are material conditions or requirements of the LAC 33:V.Chapter 43 interim status standards.

G. Interim status is not available to any facility that has been previously denied a permit for the treatment, storage or disposal of hazardous waste or for which authority to operate has been previously terminated.

H. EPA hazardous waste nos. F020, F021, F022, F023, F026, or F027 shall not be managed at facilities subject to regulation under LAC 33:V.4301-4547 unless:

1. the wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

2. the waste is stored in tanks or containers;

3. the waste is stored or treated in waste piles that meet the requirements of LAC 33:V.2301.C as well as all other applicable requirements of LAC 33:V.Chapter 43, Subchapter K;

4. the waste is burned in incinerators that are certified pursuant to the standards and procedures in LAC 33:V.4522; or

5. the waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in LAC 33:V.4534.

I. Failure to Qualify for Interim Status. If the department has reason to believe upon examination of a part I application that it fails to meet the requirements of these regulations, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for the department's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his part I application. If, after such notification and opportunity for response, the department determines that the application is deficient, it may take appropriate enforcement action.

J. LAC 33:V.5309 identifies when the requirements of this Chapter apply to the storage of military munitions classified as solid waste under LAC 33:V.5303. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in LAC 33:V.Chapters 1-37, 41-49, and 53.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 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 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by

the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:2498 (November 2000), LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2474 (October 2005), LR 31:3121 (December 2005), LR 32:612 (April 2006), LR 33:2126 (October 2007), LR 34:632 (April 2008), amended by the office of the Secretary, Legal Division, LR 43:

Subchapter G. Financial Requirements

§4399. Definitions of Terms as Used in This Subpart

A. - A.6.h. ...

7. Repealed.

8. *Current Plugging and Abandonment Cost Estimate*—the most recent of the cost estimates prepared in accordance with 40 CFR 144.62, Office of Conservation financial assurance regulations, or other substantially equivalent state programs.

9. *Substantial Business Relationship*—the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A substantial business relationship must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the administrative authority.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 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 16:219 (March 1990), LR 18:723 (July 1992), amended by the Office of the Secretary, Legal Division, LR 43:

§4407. Financial Assurance for Post-Closure Care

An owner or operator of each hazardous waste disposal unit shall establish financial assurance for post-closure care of the facility. He must choose from the options as specified in Subsections A-E of this Section.

A. - A.11. ...

12. The administrative authority will agree to termination of the trust when:

a. an owner or operator substitutes alternate financial assurance as specified in this Section; or

b. the administrative authority releases the owner or operator from the requirements of LAC 33:V.4407.A in accordance with LAC 33:V.4407.H.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 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 13:433 (August 1987), LR 18:723 (July 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1521 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2504 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2479 (October 2005), LR 33:2131 (October 2007), LR 34:1003 (June 2008), amended by the Office of the Secretary, Legal Division, LR 43:

Subchapter M. Landfills

§4501. Closure and Post-Closure

A. - C.6. ...

D. In addition to the requirements of LAC 33:V.4389, during the post-closure care period, the owner or operator of a hazardous waste landfill shall:

1. - 2. ...

3. maintain and monitor the leak detection system in accordance with LAC 33:V.2503.L.4.d, L.5, and 4502.B and comply with all other applicable leak detection system requirements of LAC 33:V.Chapter 43;

4. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 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 21:266 (March 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1627 (August 2007), amended by the Office of the Secretary, Legal Division, LR 43:

Subchapter N. Incinerators

§4513. Applicability

A. - B.1. ...

2. The following requirements continue to apply even where the owner or operator has demonstrated compliance with the MACT requirements of 40 CFR part 63, subpart EEE, LAC 33:V.4521 (closure), and the applicable requirements of LAC 33:V.4301.A-D, F, H, and J, 4306, and Chapter 43 (Subchapters A-G, R, and V).

B.3. - C.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 15:737 (September 1989), amended LR 16:220 (March 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), LR 29:324 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:635 (April 2008), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

* * *

Appendix F, Recording Instructions. Repealed.

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), amended by the Office of the Secretary, Legal Division, LR 43:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW107. Such comments must be received no later than April 5, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW107. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on March 29, 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: Hazardous Waste Authorization Resource Conservation and Recovery Act (RCRA)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be costs to Louisiana Department of Environmental Quality to implement the proposed changes, however they are not expected to be significant.

This rule makes minor corrections and clarifications to the Louisiana Hazardous Waste regulations after an equivalency review by the U.S. EPA and LDEQ staff to ensure state regulations are as stringent or equivalent to federal regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collected by LDEQ, or by other governmental units. No fees are involved in this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana Department of Environmental Quality does not anticipate any costs and/or economic benefits for the regulated community, which consists of conditionally exempt small quantity generators of hazardous waste, and persons or groups that have been issued a hazardous waste permit in accordance with LAC 33:V. However, if costs do arise LDEQ expects them to be negligible. There are no new requirements in the rule, only clarifications of existing requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should have no effect on competition and employment.

Herman Robinson
General Counsel
1702#019

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Hazardous Waste Delisting
Denka Performance Elastomer LLC
(LAC 33:V.4999)(HW122)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.4999, Appendix E (HW122).

This Rule is a technical amendment of a hazardous waste delisting of Dynawave Scrubber Effluent, which was approved and promulgated under DuPont/Dow Elastomers LLC on December 20, 1999. This rulemaking will amend the description of the wastes excluded in the Denka Performance Elastomer LLC delisting. In a previous Rule, a name change was completed for a delisting of hazardous waste. As part of public comments, the facility requested a technical change to the description of the wastes excluded. These changes were necessary because EPA has revised the waste codes since the original promulgation in 1999. LDEQ has reviewed the request to amend the waste codes and considers it justified. The basis and rationale for this Rule are to amend waste codes as appropriate. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—

Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, E, and F

* * *

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. - B.3.b. ...

* * *

Table 1—Wastes Excluded
Denka Performance Elastomer LLC, LaPlace, LA
<p>Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are: HCl Feed—D001, D002, and D007; Pontchartrain CD Heels—D001, D007, D039, F001, F002, F003, and F005; Waste Organics—D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge—D001, D007, and F005; Isom Purge—D001, D002, and F005; Denka Performance Elastomer LLC must implement a sampling program that meets the following conditions for the exclusion to be valid.</p>
<p>(1). Testing Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in <i>Test Methods for Evaluating Solid Waste, Physical/Chemical Methods</i>, EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.</p>
<p>(1)(A). Inorganic Testing During the first 12 months of this exclusion, Denka Performance Elastomer LLC must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. Denka Performance Elastomer LLC must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and Denka Performance Elastomer LLC concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then Denka Performance Elastomer LLC may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.</p>
<p>(1)(B). Subsequent Inorganic Testing Following concurrence by the department, Denka Performance Elastomer LLC may substitute the following testing conditions for those in condition (1)(A). Denka Performance Elastomer LLC must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. Denka Performance Elastomer LLC may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.</p>
<p>(1)(C). Organic Testing During the first 30 days of this exclusion, Denka Performance Elastomer LLC must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below. After completing this initial sampling, Denka Performance Elastomer LLC shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.</p>
<p>(1)(D). Dioxins and Furans Testing During the first 30 days of this exclusion, Denka Performance Elastomer LLC must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, Denka Performance Elastomer LLC shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.</p>

Table 1—Wastes Excluded
Denka Performance Elastomer LLC, LaPlace, LA
<p>(2). Waste Holding and Handling Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the Denka Performance Elastomer LLC plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded the delisting levels. If the repeat analysis is less than the delisting levels, then Denka Performance Elastomer LLC shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days Denka Performance Elastomer LLC shall submit a report to the department that outlines the probable causes for exceeding the constituent level and recommends corrective action measures. The department shall determine the necessary corrective action and shall notify Denka Performance Elastomer LLC of the corrective action needed. Denka Performance Elastomer LLC shall implement the corrective action and resume sampling and analysis for the constituent per the schedule in condition (1). Within 30 days after receiving written notification, Denka Performance Elastomer LLC may appeal the corrective action determined by the department. During the full period of corrective action determination and implementation, the exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies Denka Performance Elastomer LLC in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.</p>
<p>(3). Delisting Levels The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter).</p>
<p>(3)(A). Inorganic Constituents Chromium—2.0; Nickel—2.0; Zinc—200.</p>
<p>(3)(B). Organic Constituents Acetone—80; Chlorobenzene—2.0; Chloroform—0.2; Chloroprene—14; Ethylbenzene—14; Methylene Chloride—0.1; Styrene—2.0; Toluene—20; Xylenes—200.</p>
<p>(3)(C). Dioxins and Furans The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846 Method 8290—Monitor only.</p>
<p>(4). Changes in Operating Conditions or Feed Streams If Denka Performance Elastomer LLC either significantly changes the operating conditions specified in the petition or adds any previously unspecified feed streams and either of these actions would justify a Class 3 modification to its combustion permit, Denka Performance Elastomer LLC must notify the department in writing. Following receipt of written acknowledgement by the department, Denka Performance Elastomer LLC must collect a grab sample and analyze it for the full universe of constituents found in 40 CFR Part 264, Appendix IX—Groundwater Monitoring List (LAC 33:V.3325). If the results of the Appendix IX analyses identify no new hazardous constituents, then Denka Performance Elastomer LLC must reinstitute the testing required in condition (1)(A) for a minimum of 12 monthly operating periods. During the full period described in this condition, the delisting of the Dynawave Scrubber Effluent shall remain in force unless a new hazardous constituent is identified or the waste volume exceeds 25,000 cubic yards per year; at this time the delisting petition shall be reopened. Denka Performance Elastomer LLC may eliminate feeding any stream to the combustion unit at any time without affecting the delisting of the Dynawave Scrubber Effluent or the sampling schedule.</p>

* * *

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), amended by the Office of the Secretary, Legal Division, LR 42:2179 (December 2016), amended by the Office of the Secretary, Legal Division, LR 43:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW122. Such comments must be received no later than April 5, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW122. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on March 29, 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: Hazardous Waste Delisting Denka Performance Elastomer LLC

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no costs incurred by Louisiana Department of Environmental Quality to implement the proposed Rule.
Denka Performance Elastomer LLC was granted a name change on December 20, 2016, to apply to the existing conditional exclusion of the Dynawave Scrubber Effluent wastes, originally granted to DuPont Dow Elastomers LLC on December 20, 1999. The proposed rule includes technical changes, so the description of wastes aligns with the Environmental Protection Agency's waste codes, which have been revised since the original promulgation.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units resulting from this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated effects on costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The effects on competition and employment are estimated to be negligible.

Herman Robinson
General Counsel
1702#018

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Tax Commission

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

Editor's Note: This Notice of Intent is being repromulgated to correct typographical errors. The original Notice of Intent and corresponding Emergency Rule were printed in the December 20, 2016 edition of the *Louisiana Register* and can be viewed in their entirety on pages 2122-2136 and 2202.

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Tax Commission real/personal property rules and regulations for use in the 2017 (2018 Orleans Parish) tax year.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d....

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

3. - 9. ...

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

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

§111. Criteria for Determining Fair Market Value

A. - B. ...

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

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

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

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

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

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

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

2. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program

established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;

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

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

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

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

§121. Reappraisal

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

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

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

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

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

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

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

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

§213. Assessment Policies and Procedures

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

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

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

D. "Sales chasing" and "sales listing chasing" is expressly prohibited. *Sales chasing* is the procedure by which an individual property assessment is based upon the price the property sold for. *Sales listing chasing* is the procedure by which an individual property assessment is based upon listed sales price of the property. The assessors'

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

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

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

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

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

1. income tax credits available to the property under section 42 of the *Internal Revenue Code*;
2. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;
3. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

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

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

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

Chapter 3. Real and Personal Property

§303. Real Property

A. - A.2.

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

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

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

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

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

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

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

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

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

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

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

c. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted

occupancy and rental rates based on the income of the persons occupying such housing.

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

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

E. ...

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

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

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

A. Electronic Change Order Specifications

B. Property Classifications Standards

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

C. Electronic Tax Roll Export Specifications

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

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

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

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

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

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

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2016	1.001	1	97	.97
2015	0.993	2	93	.92

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

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

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

38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:

Chapter 9. Oil and Gas Properties

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

Value of Oil and Gas Properties

A. - B.3. ...

C. Explanations

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

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

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

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

Single Completions—

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

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

D. - G. ...

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

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

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

A. ...

* * *

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

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15 percent of Cost—New by Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	35.28	123.49	5.29	18.52

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

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

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

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

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

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

1. Parishes Considered to be Located in Region I

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

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

2. Serial Number to Percent Good Conversion Chart

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

*Reflects residual or floor rate.

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

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013), LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

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

1. - 2. ...

B. Jack-Ups

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

IC—Independent Leg Cantilever

IS—Independent Leg Slot

MC—Mat Cantilever

MS—Mat Slot

C. Semisubmersible Rigs

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

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

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

D. Well Service Rigs Land Only

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR

23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:748 (May 2016), LR 43:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	\$ 174,640	\$ 26,200
4	206,040	30,910
6	243,070	36,460
8	286,760	43,010
10	338,310	50,750
12	399,110	59,870
14	470,850	70,630
16	555,490	83,320
18	655,340	98,300
20	773,130	115,970
22	912,100	136,820
24	1,076,050	161,410
26	1,269,460	190,420
28	1,497,640	224,650
30	1,766,840	265,030
32	2,084,430	312,660
34	2,459,100	368,870
36	2,901,110	435,170
38	3,422,580	513,390
40	4,037,770	605,670
42	4,763,550	714,530
44	5,619,790	842,970
46	6,629,920	994,490
48	7,821,630	1,173,240

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	\$1,007,620	\$151,140
4	1,011,070	151,660
6	1,015,340	152,300
8	1,033,090	154,960
10	1,058,260	158,740
12	1,090,850	163,630
14	1,130,850	169,630
16	1,178,280	176,740
18	1,233,120	184,970
20	1,295,380	194,310
22	1,365,060	204,760
24	1,442,150	216,320
26	1,526,670	229,000
28	1,618,600	242,790

Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
30	1,717,950	257,690
32	1,824,720	273,710
34	1,938,900	290,840
36	2,060,500	309,080
38	2,189,520	328,430
40	2,325,960	348,890
42	2,469,820	370,470
44	2,621,090	393,160
46	2,779,780	416,970
48	2,945,890	441,880

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

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

*Reflects residual or floor rate.

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

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:680 (April 2015), LR 42:748 (May 2016), LR 43:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

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

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

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

Chapter 17. Inventories

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

A. - E. ...

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

NOTE: See addendum for reporting requirements.

G. Inventory Values. The law provides that: in the assessment of merchandise or stock in trade on hand, the

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

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

NOTE: See addendum for assessment guidelines.

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

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

§1703. Addendum

A. - A.2. ...

B. Addendum for Reporting Requirements

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

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

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

C. - C.3. ...

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

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

Chapter 25. General Business Assets

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

A. - A.1. ...

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2016 = 100*
2016	1	1580.9	1.001
2015	2	1593.7	0.993
2014	3	1578.8	1.002

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

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

C. ...

D. Composite Multipliers 2017 (2018 Orleans Parish)

Table 2503.D Composite Multipliers 2017 (2018 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98	.98
2	.49	.69	.72	.78	.83	.86	.89	.92	.94	.96
3	.34	.52	.57	.67	.76	.80	.85	.90	.93	.95
4	.16	.35	.42	.55	.68	.74	.80	.87	.91	.94
5		.24	.31	.44	.59	.68	.75	.84	.89	.93
6		.19	.20	.35	.52	.61	.72	.82	.88	.92
7			.20	.28	.42	.54	.67	.80	.88	.92
8				.24	.32	.46	.59	.75	.84	.90
9				.22	.27	.40	.54	.72	.83	.89
10					.24	.33	.50	.69	.82	.89
11					.24	.29	.45	.67	.81	.88
12						.28	.39	.64	.81	.87
13						.27	.36	.62	.80	.86
14							.33	.57	.79	.86
15							.30	.50	.75	.86
16							.29	.45	.69	.86
17								.39	.64	.85
18								.36	.58	.80
19								.33	.51	.76
20								.32	.45	.71
21								.31	.43	.67
22									.40	.62
23									.39	.59
24									.33	.56
25									.32	.52
26									.32	.48
27										.45

Table 2503.D Composite Multipliers 2017 (2018 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
28										.41
29										.40
30										.39
31										.38

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

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

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

Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - I. ...

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

K. ...

**Form 3101
Exhibit A**

**Appeal to Board of Review by Property Owner/Taxpayer
for Real and Personal Property**

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Ward: _____ Assessment/Tax Bill Number: _____ Appeal No. _____
Board of Review

(Attach copy of complete appeal submitted to the Board of Review)

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

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if

personal property) as required by law, and I have reviewed my assessment with my assessor.

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

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

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

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

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

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

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

NOTE: If property owner/taxpayer disputes the Board of Review's decision, property owner/taxpayer may appeal to the La. Tax Commission by completing and submitting Appeal Form 3103.A to the LTC within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the BOR's written determination. For further information, call the LTC at (225) 925-7830.

Property Owner/Taxpayer _____

Address: _____

Telephone No. _____

Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:682 (April 2015), LR 42:751 (May 2016), LR 43:

§3103. Appeals to the Louisiana Tax Commission

A. - B. ...

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator, unless otherwise provided herein. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. If the total of one party's exhibits exceed 100 pages, such exhibits must be submitted to the Tax Commission in electronic/digital form along with 2 paper copies. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. ...

D.1. All parties shall receive notice of the scheduling of an appeal hearing at least 30 days prior to the scheduled hearing date.

2. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of

Review decision may attach a pleading containing further information concerning the appeal.

3. Either party may request a continuance of a scheduled hearing. Such a request must be made in writing and filed and served on the opposing party at least 15 days prior to the scheduled hearing date, unless good cause can be shown why the 15-day requirement should be waived. Requests for continuance must contain the grounds on which the continuance is requested and state whether or not the opposing party objects to the request.

4. A taxpayer or assessor who has appealed the decision of the Board of Review shall file and serve on the opposing party at least 15 days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing. The party appealing the decision of the Board of Review must submit evidence that establishes the fair market value of their property or other grounds that would constitute reversal of the Board of Review's decision.

5. The party who has not appealed the Board of Review decision shall file and serve on the opposing party at least seven days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing.

6. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits and bound. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer _____" and shall be consecutively numbered. The taxpayer shall at the time an exhibit is offered state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor _____" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission _____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record proceedings before the commission, but shall not be filed as exhibits offered into evidence for the hearing before the commission.

E. If a taxpayer appeals the Board of Review's decision on the basis that the assessor appraised his or her property on the sole basis of a sale or sales listing, evidence establishing that the property was appraised at the value of, or based solely upon, the sale or sales listing shall constitute prima facie evidence of sales/listing chasing and shall create a rebuttal presumption against the assessment.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise prior to the hearing, for the purpose of formulating issues and considering:

1. simplification of issues;
2. a limitation, where possible of the number of witnesses;
3. the time required for presentations;
4. stipulations as to admissibility of exhibits;
5. submission of proposed findings of fact;

6. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the party, which has initiated the appeal to the commission. The statement shall be filed with the commission seven days prior to the scheduled hearing before the commission. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is disagreement together with a brief summary of the nature of the disagreement.

H. Upon written notice by the commission, the parties or their attorneys or other representative may be directed to file legal memorandums with the commission 15 days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

I. Any party with leave of the commission or hearing officer may present prepared sworn deposition testimony of a witness either narrative or in question and answer form, which shall be incorporated into the record as if read by a witness. The opposing party will be allowed to cross-examine and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

J. Any taxpayer or assessor may appear and be represented by an attorney at law authorized to practice law before the highest court of any state; a natural person may appear in his own behalf, or through an attorney or other representative; or a corporation, partnership or association may appear and be represented to appear before the commission by a bona fide officer, partner, full time employee, or any other person duly authorized as provided for on "exhibit B, appointment of taxpayer agent in Louisiana Tax Commission ad valorem tax appeal" (Form 3103.B).

K. Every taxpayer or assessor, witness, attorney or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer or assessor, witness, attorney or other representative may be excluded by the commission from any hearing for such period and upon such conditions as are just for violation of this rule.

L. All official hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

M. A continuance shall not be granted due to an unexcused absence of a taxpayer, assessor or any representative, attorney or witness, at the time and place set for a scheduled hearing before the commission, without consent of the taxpayer and/or assessor. If such consent is refused, the hearing shall proceed.

N. The hearing shall be conducted informally. It will be the responsibility of the taxpayer or assessor to retain the services of an official reporter for a scheduled hearing should either anticipate the need for a transcript. The Tax

Commission shall be notified within three business days, prior to the scheduled hearing that an official reporter will be in attendance.

O. All parties testifying shall be placed under oath by the commission at the onset of each hearing.

P. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana *Rules of Evidence* shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

Q. The commission shall take official notice without further identification of the contents of the original records and documents in possession of the commission when duly certified copies thereof are offered into evidence and made a part of the record. The Board of Review does not transmit a record or evidence to the Tax Commission. Any evidence or information that was submitted to the Board of Review must be filed by the parties, to be considered by the Tax Commission. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

R. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses, and rule upon the admissibility of evidence and amendments to the pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

S. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission.

T. At the close of evidence, each side will be allowed a reasonable amount of time to argue its case. This time will be allotted by the chairman or hearing officer.

U. The parties to an appeal shall be notified in writing, by certified mail and electronic mail, of the final decision by the commission. The taxpayer or assessor shall have 30 days from entry of the order to appeal to a court of competent jurisdiction.

V. The Tax Commission defines "entry" under R.S. 47:1998, as the mailing of the decision to the parties. Decisions by the Tax Commission are not entered or final until signed and placed in the mail to the parties.

W. Following the entry of a final decision, the commission may, at its discretion, grant the request of a taxpayer or assessor for a rehearing; provided the rehearing request is made in accordance with the Administrative Procedure Act.

X. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents for a hearing may be issued by the commission upon its own motion, or upon the written request of the taxpayer or assessor. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena *duces tecum* shall

allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under general forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Administrative Procedure Act.

Y. The word *commission*, as used herein, refers to the chairman and the members or its delegate appointed to conduct the hearing.

Z. A decision by the Tax Commission that determines the fair market value of a property shall be applied to subsequent tax years until reappraisal in a future mandated reappraisal year, unless there has been a change in the condition of the property that would justify reappraisal or a change in value. A change in value in subsequent tax years for a property that the Tax Commission determined fair market value of, prior to a reappraisal year, shall serve as prima facie evidence of a prohibited reappraisal and shall create a rebuttable presumption against the assessment. The assessor must show that there has been a change in the condition of the property that would justify reappraisal or a change in value in a non-reappraisal year.

Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
by Property Owner/Taxpayer or Assessor
for Real and Personal Property

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Property Owner/Taxpayer/Assessor
Address: _____ City, State, Zip: _____

Ward: _____ Assessment Tax Bill No.: _____ Appeal No.: _____
(Attach copy of complete appeal submitted to the Board of Review)
Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal. _____

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:
Land \$ _____ Improvement \$ _____
Personal Property \$ _____ Total \$ _____

The proposed Fair Market Value by the taxpayer was (at the Board of Review):
Land \$ _____ Improvement \$ _____
Personal Property \$ _____ Total \$ _____

The Fair Market Value determined by the Board of Review was:
Land \$ _____ Improvement \$ _____
Personal Property \$ _____ Total \$ _____

* If you are not appealing personal property leave this section blank.

Note: Both parties have the right to appeal the Board of Review's decision. If you disagree with the Board of Review's determination, you must file an appeal. The appeal of the decision of the Board of Review by one party is not an appeal of that decision from the other party. To protect your rights, if you disagree with the determination of the Board of Review, you should file an appeal to the Louisiana Tax Commission challenging the Board of Review's determination regardless of whether or not the other party has appealed that decision.

Appellant: _____ (Property Owner/Taxpayer/Assessor)

LTC Docket No. _____

**Form 3106.A
Appeal to Louisiana Tax Commission
by Taxpayer
for Bank Stock Assessments**

LA Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

\$ _____

I am requesting that the Fair Market Value be fixed at:

\$ _____

Appellant: _____
Address: _____

Telephone No.: _____
Date: _____
Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:

§3107. Practice and Procedure for Appeal of Insurance Credit Assessments

A. - T. ...

LTC Docket No. _____

**Form 3107.A
Appeal To Louisiana Tax Commission
by Taxpayer
for Insurance Assessments**

LA Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

\$ _____

I am requesting that the Fair Market Value be fixed at:

\$ _____

Appellant: _____
Address: _____

Telephone No.: _____
Date: _____
Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), amended LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax

Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2014, and ending on June 30, 2018, in connection with services performed by the Tax Commission as follows:

1. a fee for assessing public service property, at the rate of .01 percent of the assessed value, beginning July 1, 2014 and ending on June 30, 2016 and at the rate of .04 percent of the assessed value beginning July 1, 2016 and ending on June 30, 2018, to be paid by each public service property which pays ad valorem taxes;

2. a fee for assessing insurance companies, at the rate of .015 percent of the assessed value, to be paid by each insurance company which pays ad valorem taxes;

3. a fee for assessing financial institutions, at the rate of .015 percent of the assessed value, to be paid by each bank and capital stock association which pays ad valorem taxes.

B. - E. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 41:683 (April 2015), LR 43:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The effect on the stability of the family. Implementation of these proposed rules will have no effect on the stability of the family.

2. The effect on the authority and rights of parent regarding the education and supervision of their children. Implementation of these proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed rules will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed rules will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed rules will have no effect on the behavior and responsibility of children.

6. The ability of the family or a local government to perform the function as contained in these proposed rules. Implementation of these proposed rules will have no effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed rules until 4 p.m., January 9, 2017, at the following address: Charles Abels, Tax Commission Administrator, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

Public Hearing

A public hearing on this proposed Rule will be scheduled for Wednesday, January 25, 2017, at 10 a.m., at the Louisiana State Capitol, 900 North Third St., Baton Rouge, LA 70802.

Lawrence E. Chehardy
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules reflect annual changes in valuation procedures for taxation purposes based on the most recent available data. There are no estimated costs or savings associated with the proposed rules for state governmental units. An impact to local governmental workload resulting in an additional administrative costs will occur, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in a decrease of approximately \$32,760,000 in revenue collections for local governments based upon revisions to valuation tables decreasing real and personal property assessments by approximately 3.5% in total. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset pursuant to millage adjustment provisions of Article VII, Section 23 of the state Constitution.

On average, these revisions will generally decrease certain 2017 real and personal property assessments for property of similar age and condition in comparison with the latest available equivalent assessments. However, the assessments of certain property types will increase compared to prior year. Composite multiplier tables for assessment of most personal property will decrease by an estimated 3%. Specific valuation tables for assessment of pipelines will remain the same (Onshore increase by 1% and Offshore decrease by 1%). Oil & gas wells will decrease by an estimated 6% in all regions. Drilling rigs will decrease by an estimated 17% (Land rigs - 44.5%, Jack-Ups +2%, Semisubmersible Rigs +2% and Well Service Land Only Rigs -27.5%). The net effect determined by averaging these revisions is estimated to decrease assessments

by 3.5% and estimated local tax collections by \$32,760,000 in FY 17/18 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

There is no impact to revenue collections of state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The effects of these new rules on assessments of individual items of equivalent real and personal property will generally be lower in the aggregate in 2017 compared to the last year of actual data. Specific assessments of real and personal property will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for the updates, any aggregate impact on competition and employment statewide will likely be minimal.

Lawrence E. Chehardy
Chairman
1702#037

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Dentistry

Certification Confirmation and Reconfirmation Fees;
Display of Certificate
(LAC 46:XXXIII.420 and 505)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.420 and 505.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.420 to reflect the changes made to LAC 46:XXXIII.520 and to provide for a \$25 biennial re-certification fee for Expanded Duty Dental Assistants.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.505 to change the requirements for Expanded Duty Dental Assistant ("EDDA") certificates to now be reconfirmed biennially and they will expire on December 31 of each calendar year of the renewal period. Further, to add that EDDA certificates will become inactive if the reconfirmation fees are not paid by December 31 and that the certificate may be reactivated by paying the reconfirmation fee.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXIII. Dental Health Profession

Chapter 4. Fees and Costs

Subchapter E. Fees for Expanded Duty Dental Assistants

§420. Certificate Confirmation and Reconfirmation Fees

A. - A.1. ...

2. certificate reconfirmation fee \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:207 (February 1993), amended LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 43:

Chapter 5. Dental Assistants

§505. Expanded Duty Dental Assistant Certificate Confirmation Fee and Reconfirmations; Display of Certificate

A. Expanded duty dental assistants shall be charged an initial certification confirmation fee. A certificate shall be reconfirmed biennially and will expire on December 31 of each calendar year of the renewal period. Said fees shall be determined according to Chapter 4 of these rules.

B. ...

C. Expanded duty dental assistant certificates become inactive following the failure of the holder to pay the reconfirmation fee by December 31. The expanded duty dental assistant may reactivate the certificate by paying the reconfirmation fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:206 (February 1993), amended LR 33:2652 (December 2007), LR 43:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Certification Confirmation and
Reconfirmation Fees; Display of Certificate**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated one-time implementation cost to the Board of Dentistry for the publication of the proposed notice and rules in the State Register is approximately \$500 in FY 17. There are no additional implementation costs or savings to state or local governmental units through promulgation of the proposed rules changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule requires Expanded Duty Dental Assistants (EDDA) to pay a \$25 fee every two years to renew their professional certification. In FY19, this fee is anticipated to generate approximately \$6,000 in revenue for the board. The amount of revenue generated in subsequent years will vary depending on the number of re-certifications.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change results in additional expenses to Expanded Duty Dental Assistants when they reconfirm their biennial certificate. The renewal fee will be \$25 every two years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not impact competition or employment.

Arthur F. Hickman, Jr.
Executive Director
1702#067

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Dentistry

Fees and Costs; Anesthesia/Analgesia Administration;
Continuing Education Requirements
(LAC 46:XXXIII.415, 1503, 1504,
1506, 1510, 1511, and 1611)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.415, 1503, 1504, 1506, 1510, 1511, and 1611.

The current rules of the Louisiana State Board of Dentistry require a dentist to receive specific, one time, training in order to obtain a permit to provide sedation to patients. The amount of training varies with the level of sedation the dentist seeks to provide. Currently the types of permits are: nitrous oxide, moderate sedation with enteral drugs, moderate sedation with parenteral drugs, and general anesthesia/deep sedation. LAC 46:XXXIII.1503 references the American Dental Association (ADA) guidelines for the amount of training for each type of permit. The ADA recently abolished the distinction between moderate enteral and moderate parenteral sedation in its guidelines. LAC46:XXXIII.1503 is being changed to combine the categories of moderate enteral and moderate parenteral sedation and to spell out the training requirements, rather than to reference the ADA guidelines.

The changes to LAC 46:XXXIII.415, 1506, 1510 and 1511 are being changed to reflect the changes to §1503. LAC 46:XXXIII.1504 is being changed to clarify that the word “children” as used means someone under the age of 13. Finally, the changes to LAC 46:XXXIII.1505 and 1611 does nothing more than clarify the continuing education requirements for the holders of sedation permits. They do not make any substantive changes.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits, and Examinations (Dentists)

A. - A. 10. ...

11. application and permitting for general or moderate anesthesia permit—\$400;

12. ...

13. renewal of general moderate anesthesia permit—\$200;

14. - 18. ...

19. expungement of first-time advertising violation—\$500;

20. application and permitting for mobile or movable dental office—\$250;

21. annual fee to support well-being program—\$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:795.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18:741 (July 1992), LR 23:1526 (November 1997), LR 24:1115 (June 1998), LR 25:1478 (August 1999), LR 26:691 (April 2000), LR 28:1778 (August 2002), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 34:2564 (December 2008), repromulgated LR 35:68 (January 2009), amended LR 37:2150 (July 2011), LR 37:3515 (December 2011) repromulgated LR 38:356 (February 2012), amended LR 39:89 (January 2013), LR 39:2278 (August 2013), LR 43:

Chapter 15. Anesthesia/Analgesia Administration

§1503. Personal Permits for Sedation/Anesthesia

A. - A.1. ...

2. moderate sedation;

3. general anesthesia/deep sedation.

B. In order to receive a personal permit, the dentist must show proof of completion of a training program pertaining to the level of permit sought, as described below.

1. In order to receive personal permit to administer nitrous oxide sedation, the dentist must show proof to the board of completion of a course on nitrous oxide sedation that consists of a minimum of 16 hours of didactic instruction, plus clinically-oriented experiences during which competency in nitrous oxide sedation techniques is demonstrated.

2. In order to receive a personal permit to administer moderate sedation, the dentist must show proof to the board of completion of a course on moderate parenteral sedation that includes:

a. a minimum of 60 hours of instruction plus the administration of sedation for at least 20 individually managed patients.

b. certification of competence in moderate sedation techniques.

c. certification of competence in rescuing patients from a deeper level of sedation than intended including managing the airway, intravascular or intraosseous access, and reversal medications.

d. provision by course director or faculty of additional clinical experience if participant competency has not been achieved in time allotted.

e. records of instruction and clinical experiences (i.e., number of patients managed by each participant in each modality/route) that are maintained and available for participant review.

3. In order to receive a personal permit to administer general anesthesia/deep sedation, the dentist must show proof to the board of having completed an advanced education program accredited by the Commission on Dental Accreditation that provided training in deep sedation and general anesthesia.

C. - D. ...

E. In addition to the requirements of Subsections B and D, in order to receive or renew a personal moderate sedation permit or a personal deep sedation/general anesthesia permit, the licensee must provide proof of current certification in advanced cardiac life support as defined by the American Heart Association or its equivalent. The board will only accept an ACLS course which includes a practical component which is personally attended. If a dentist's practice is restricted to treating only children, the

certification in pediatric life support (PALS) described in §1504.A.4 will suffice as a substitute for ACLS.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, amended LR 42:53 (January 2016), amended LR 43:

§1504. Pediatric Certification for Personal Permits

A. - A.3. ...

4. In addition to the above requirements, in order to receive or renew a personal permit with a pediatric certification, the licensee must provide proof of current certification in pediatric life support (PALS), or its equivalent. The board will only accept a PALS course which includes a practical component which is personally attended. If a dentist's practice is restricted to treating only children under the age of 13, the PALS certification will suffice as a substitute for the ACLS required in §1503.E. If a dentist's practice is not restricted to treating only children, in order to receive a permit with a pediatric certification, both PALS and ACLS certifications are required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:54 (January 2016), amended LR 43:

§1505. Personal Permit Renewals

A. The licensee must obtain required continuing education as specified in §1611.J in order to renew any personally held general anesthesia or moderate sedation permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:54 (January 2016), amended LR 43:

§1506. Intranasal Midazolam

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:54 (January 2016), repealed LR 43:

§1510. Moderate Sedation

A. In order to administer moderate sedation, the dentist shall:

A.1 - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:55 (January 2016), amended LR 43:

§1511. Required Facilities, Personnel and Equipment for Sedation Procedures

A. - A.7.e. ...

f. equipment to monitor partial pressure of carbon dioxide when moderate sedation, deep sedation, or general anesthesia is administered;

A.7.g. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:55 (January 2016), amended LR 43:

Chapter 16. Continuing Education Requirements

§1611. Continuing Education Requirements for Relicensure of Dentists

A. - I.3 ...

J. Each licensee holding a general anesthesia or moderate sedation personal permit for at least two years must complete continuing education as listed below in order to renew the permit. All anesthesia or sedation specific continuing education may count toward the regular requirement listed in 1611 A.

1. ACLS and/or PALS recertification is required of all general anesthesia or moderate sedation personal permit holders as specified in §§1503 and 1504.

2. Six hours of continuing education per license renewal period on the administration of sedation specific to the level of sedation/anesthesia permit held or on medical emergencies associated with the administration of sedation/anesthesia specific to the level of sedation/anesthesia permit. If the permit has a pediatric certification, in addition to the above stated requirements, the continuing education must be pediatric-specific. The CPR, ACLS, and PALS courses required in §1611.J.1 may not count toward the requirements set forth in this Section.

3. The permit holder shall personally attend a course pertinent to the level of sedation permit held no less than once every six years. This personally attended course may, if at least six hours, count toward the requirement in §1611.J.2.

4. Recertification for deep sedation or general anesthesia as required by the American Association of Oral and Maxillofacial Surgeons every five years shall satisfy the requirements listed in 1611.J.2 and 3.

K. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 21:569 (June 1995), LR 22:24 (January 1996), LR 22:1216 (December 1996), LR 23:1526 (November 1997), LR 24:1117 (June 1998), LR 25:510 (March 1999), LR 26:489 (March 2000), LR 30:2307 (October 2004), LR 32:244 (February 2006), LR 35:1237 (July 2009), LR 36:2038 (September 2010), LR 37:2151 (July 2011), LR 37:3515 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:817 (March 2012), LR 38:1959 (August 2012), LR 39:1282 (May 2013), LR 43:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of

2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Certification Confirmation and Reconfirmation Fees; Display of Certificate

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is a one-time implementation cost to the Board of Dentistry for the publication of the proposed notice and rules in the State Register of approximately \$500 in FY 17. There are no additional estimated implementation costs or savings to state or local governmental units through promulgation of the proposed rules changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections by the board, state, or local governmental units through promulgation of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Currently, there are two levels of moderate sedation permits, enteral and parental. The proposed rule removes the distinction in the two levels and creates a singular moderate sedation permit. The singular moderate sedation permit will adopt the training requirements of the former parental sedation permit, which is more intensive than the enteral training. Dentists that do not currently possess a moderate sedation permit and now wish to get one will only have the option of taking the parental sedation training, which is approximately \$2,000 more than the enteral sedation training.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not impact competition or employment.

Arthur F. Hickman, Jr.
Executive Director
1702#066

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

Prevention of Viral Infections (LAC 46:XLVII.Chapter 40)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is proposing the repeal of LAC 46:XLVII, Nurses: Practical Nurses and Registered Nurses, Subpart 2. Registered Nurses, Chapter 40. The expectations related to awareness and accountability have changed since the last revision of this Rule. The most recent revision of Chapter 40 was in November 2004. Several other nursing boards such as TX, MS, AL, AR, NY, IL, OK and CA do not have any rules similar to Chapter 40 in their regulatory guidelines. With the repeal of Chapter 40, The Louisiana State Board of Nursing is expecting all nurses in the state of Louisiana to follow the Centers for Disease Control and Prevention (CDC) guidelines for universal precautions.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 40. Prevention of Transmission of Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV)

§4001. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:341 (March 1993), amended LR 19:1150 (September 1993), LR 24:1293 (July 1998), LR 30:2482 (November 2004), repealed by the Department of Health, Board of Nursing, LR 43:

§4003. Standard Precautions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:341 (March 1993), amended LR 19:1151 (September 1993), LR 24:1293 (July 1998), LR 30:2484 (November 2004), repealed by the Department of Health, Board of Nursing, LR 43:

§4005. Self-Reporting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:341 (March 1993), amended LR 19:1151 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 30:2484 (November 2004), repealed by the Department of Health, Board of Nursing, LR 43:

§4007. Authorization to Perform or Participate in Exposure-Prone Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1746-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:342 (March 1993), amended LR 19:1152 (September 1993), LR 24:1293 (July 1998), LR 30:2484 (November 2004), repealed by the Department of Health, Board of Nursing, 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 March 10, 2017.

Dr. Karen C. Lyon, E.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prevention of Viral Infections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is an estimated one-time implementation cost to the Louisiana State Board of Nursing for the publication of the proposed notice and rules in the State Register of \$426.00 in FY 17. There are no additional implementation costs or savings to state or local governmental units through promulgation of the proposed rule changes. This rule removes Chapter 40 under Title 46, Professional and Occupational Standards, Part XLVII. Chapter 40 refers to precautions that should be taken to prevent transmission of Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV). The Louisiana State Board of Nursing is expecting all nurses in the State of Louisiana to follow the Center for Disease Control and Prevention (CDC) guidelines for universal precautions, which is already common practice and prevents the transmission of HBV, HCV, and HIV.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local governmental revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to result in costs and/ or economic benefits to any person or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and/or employment.

Dr. Karen C. Lyon, E.D.
Executive Director
1702#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Licensing Standards (LAC 48:I.Chapter 45)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 45 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2131-2141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the licensing standards governing ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements (*Louisiana Register*, Volume 28, Number 12).

The Department of Health, Bureau of Health Services Financing now proposes to repeal and replace the licensing standards governing ambulatory surgical centers in order to: 1) clarify the existing provisions; 2) provide for inactivation of the provider license in the event of specific qualifying

events or circumstances; 3) establish provisions which allow ambulatory surgical centers to enter into use agreements; and 4) ensure consistency with other licensing rules, regulations and processes.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

Subchapter A. General Provisions

§4501. Introduction

A. These regulations contain the minimum licensing standards for ambulatory surgical centers, pursuant to R.S. 40:2131-2141. Ambulatory surgical centers are established for the purpose of rendering surgical procedures to its patients on an outpatient basis.

B. The care and services to be provided by an ambulatory surgical center (ASC) shall include:

1. surgical procedures;
2. medications as needed for medical and surgical procedures rendered;
3. services necessary to provide for the physical and emotional well-being of patients;
4. emergency medical services; and
5. organized administrative structure and support services.

C. Licensed ASCs shall have one year from the date of promulgation of the final Rule to comply with all of the provisions herein.

D. For those ASCs that apply for their initial ASC license after the effective date of the promulgation of this Rule, or receive plan review approval for initial construction or major renovations after the effective date of the promulgation of this Rule, or change their geographic address after the effective date of the promulgation of this Rule, such shall be required to comply with all of the provisions herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4503. Definitions

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall ASC's operation commensurate with the authority conferred by the governing body.

Ambulatory Surgical Center (ASC)—a distinct entity that is wholly separate and clearly distinguishable from any other healthcare facility or office-based physician's practice. An ASC shall be composed of operating room(s) and/or procedure room(s) with an organized medical staff of physicians and permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures. An ASC provides continuous physician and professional nursing services to patients whenever a patient is in the ASC, but does not provide services or accommodations for patients to stay overnight.

1. The following services shall be offered by the ASC when a patient is in the center:

- a. drug services as needed for medical operations and procedures performed;
- b. provisions for the physical and emotional well-being of patients;
- c. provision of emergency services;

d. organized administrative structure; and

e. administrative, statistical and medical records.

2. An ASC may also be defined as a treatment center that is organized primarily for the purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool.

3. An ASC that enters into a use agreement with another entity/individual shall have separate, designated days and hours of operation.

Certified Registered Nurse Anesthetist (CRNA)—an advanced practice registered nurse who administers anesthetics or ancillary services in accordance with the licensing requirements of the State Board of Nursing (LSBN) and under the supervision of a physician or dentist who is licensed under the laws of the state of Louisiana. The CRNA determines and implements the anesthesia care plan for a patient during a procedure and, for the safety of the patient, shall not be involved in other aspects of the procedure.

Cessation of Business—when an ASC is non-operational and voluntarily stops rendering services to the community.

Controlled Dangerous Substance (CDS)—a drug, substance or immediate precursor in Schedule I through V of R.S. 40:964.

Department (LDH)—the Louisiana Department of Health.

Division of Administrative Law (DAL)—the agency authorized to conduct fair hearings and take actions on appeals of departmental decisions as provided for in the Administrative Procedure Act, or its successor.

Endoscopic

Retrograde Cholangiopancreatography (ERCP)—a procedure used to diagnose diseases of the gallbladder, biliary system, pancreas and liver.

Endoscopic Ultrasound/Fine Needle Aspiration (EUS/FNA)—a technique using sound waves during an endoscopic procedure to look at, or through, the wall of the gastrointestinal tract.

Governing Body—the individual or group of individuals who are legally responsible for the operation of the ASC, including management, control, conduct and functioning of the ASC, also known as the governing authority.

Immediately Available—a person that is not assigned to any uninterruptible tasks.

Invasive Procedure—a procedure that:

1. penetrates the protective surfaces of a patient's body;
2. is performed in an aseptic surgical field;
3. generally requires entry into a body cavity; and
4. may involve insertion of an indwelling foreign body.

NOTE: The intent is to differentiate those procedures that carry a high risk of infection, either by exposure of a usually sterile body cavity to the external environment or by implantation of a foreign object(s) into a normally sterile site. Procedures performed through orifices normally colonized with bacteria and percutaneous procedures that do not involve an incision deeper than skin would not be included.

Length of Patient Stay—the period of time that begins with the admission of the patient to the ASC and ends with the discharge of the patient from the ASC. The time of admission shall be calculated in accordance with the ASC's written policy. The length of any patient stay shall be documented.

Licensing Agency—the Louisiana Department of Health.

Medical Staff—physicians, dentists, podiatrists and other professional licensed medical practitioners who are authorized to practice in the ASC according to these standards and the requirements of the governing authority.

Minimal Sedation—as defined by the American Society of Anesthesiology (ASA), a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, ventilatory and cardiovascular functions are unaffected.

Minor Alterations—the painting of walls, changing of flooring products or any other cosmetic changes to the ASC which do not involve moving structural walls, doors, windows, electrical or plumbing.

Miscarried Child—the fetal remains resulting from a spontaneous fetal death that does not require compulsory registration pursuant to the provisions of R.S. 40:47.

New Construction—any of the following structures that will be started after promulgation of these provisions shall be considered new construction:

1. newly constructed buildings;
2. additions to existing buildings;
3. conversions of existing buildings or portions thereof;
4. alterations, other than minor alterations, to an already existing ASC; or
5. any previously licensed ASC that has voluntarily or involuntarily ceased providing ASC services and surrendered its license shall be considered new construction for plan review purposes.

Non-Operational—when the ASC is not open for business operation on designated days and hours as stated on the licensing application.

Operating Room (OR)—a room in the surgical center that meets the requirements of a restricted area and is designated and equipped for performing surgical or other invasive procedures. An aseptic field is required for all procedures performed in an OR. Any form of anesthesia may be administered in an OR if proper anesthesia gas administration devices are present and exhaust systems are provided.

Overnight—the length of admission to an ASC of any patient that exceeds 23 hours, which is calculated as the time of admission to the time of discharge from the ASC.

Physician—a licensed medical practitioner who possesses an unrestricted license and is in good standing with the State Board of Medical Examiners. This includes a doctor of:

1. medicine;
2. osteopathy;
3. podiatry;
4. optometry;
5. dental surgery or dental medicine; or
6. chiropractic.

Procedure Room—a room designated for the performance of a procedure that is not deemed to be an invasive procedure. The procedure may require the use of sterile instruments or supplies but not the use of special ventilation or scavenging equipment for anesthetic agents.

Standards—the rules, regulations and policies duly adopted and promulgated by the Department of Health with the approval of the secretary.

Unlicensed Assistive Personnel (UAP)—any unlicensed trained personnel who cannot practice independently or without supervision by a registered nurse. This may include operating and/or procedure room technicians, instrument cleaning and/or sterilization technicians and nursing assistants or orderlies.

Use Agreement—a written agreement between a licensed ASC and an individual or entity in which the ASC allows the individual or entity to use its facility, or a portion thereof, on a part-time basis to provide the services of an ASC. All use agreements shall comply with applicable federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4505. Licensing Requirements

A. The Department of Health, Health Standards Section (HSS), is the only licensing authority for ASCs in the state of Louisiana.

B. Each ASC license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the ASC to which it is issued and only for the specific geographic address of that ASC;
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:
 - a. a provisional license shall be valid for a period of six months if the department determines that there is no immediate and serious threat to the health and safety of patients;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ASC;
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.

C. The ASC shall abide by and adhere to any federal, state, and local laws, rules, policies, procedures, manuals or memorandums applicable to such facilities. ASCs that have entered into a use agreement shall be responsible for compliance with these licensing standards and any applicable state and federal rules and regulations during the period of use of the ASC.

D. A separately licensed ASC shall not use a name which is the same as the name of another such ASC licensed by the department.

E. A licensed ASC shall notify the department prior to any changes or additions of surgical services. If these surgical services are new to the ASC, the ASC shall provide these surgical services in accordance with the provisions of this Chapter and in accordance with accepted standards of practice.

F. All accredited, or deemed ASCs, shall notify the department prior to the expiration date of any changes in accreditation or deemed status.

G. An ASC shall not have any off-site campuses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4507. Initial Licensure Application Process

A. An initial application for licensing as an ASC shall be obtained from the department. A completed initial license application packet for an ASC shall be submitted to, and approved by the department, prior to an applicant providing services.

B. The initial licensing application packet shall include:

1. a completed licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter(s) of the architectural and licensing facility plans from the Office of the State Fire Marshal (OSFM) and any other office/entity designated by the department to review and approve the facility's architectural and licensing plan review;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal, if applicable;

4. a copy of the on-site health inspection report with approval for occupancy from the Office of Public Health (OPH);

5. proof of each insurance coverage as follows:

a. general liability insurance of at least \$300,000 per occurrence;

b. worker's compensation insurance as required by state law;

c. professional liability insurance of at least \$300,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF);

i. if the ASC is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate; and

d. the LDH Health Standards Section shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent).

6. proof of a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

7. disclosure of ownership and control information;

8. the usual and customary days and hours of operation;

9. an organizational chart and names, including position titles, of key administrative personnel and governing body;

10. controlled dangerous substance application;

11. fiscal intermediary, if applicable;

12. Secretary of State's *Articles of Incorporation*;

13. Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver, if applicable;

14. an 8.5 x 11 inch mapped floor plan; and

15. any other documentation or information required by the department for licensure.

C. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information, and shall have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application shall be closed. If an initial licensing application is closed, an applicant who is still

interested in becoming an ASC shall be required to submit a new initial licensing application packet with the required fee to start the initial licensing process.

D. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant shall notify the department that the ASC is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed ASC shall be required to submit a new initial licensing packet with the required fee to start the initial licensing process.

E. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the ASC will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4509. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial on-site licensing survey shall be conducted to ensure compliance with the licensing laws and standards.

1. The initial licensing survey of an ASC shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

B. The ASC shall not provide services to any patient until the initial licensing survey has been performed and the ASC has been determined to be in compliance with the licensing regulations and has received written approval from the Health Standards Section (HSS).

C. In the event that the initial licensing survey finds that the ASC is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the center. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

D. In the event that the initial licensing survey finds that the ASC is noncompliant with any licensing laws or regulations, or any other required rules or regulations that present a potential threat to the health, safety, or welfare of the patients, the department shall deny the initial license.

E. In the event that the initial licensing survey finds that the ASC is noncompliant with any licensing laws or regulations, or any other required rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety or welfare of the patients, the department may issue a provisional initial license for a period not to exceed six months. The ASC shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

1. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license may be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies

affecting the health, safety or welfare of a patient are cited, the provisional license will expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and the required licensing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4511. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses:

1. Full Initial License. The department shall issue a full license to the ASC when the initial licensing survey finds that the ASC is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. The department may issue a provisional initial license to the ASC when the initial licensing survey finds that the ASC is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the patients.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed ASC 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, suspended or terminated.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed ASC for a period not to exceed six months for any of the following reasons.

1. The existing ASC has more than five deficient practices or deficiencies cited during any one survey.

2. The existing ASC has more than three substantiated complaints in a 12 month period.

3. The existing ASC has been issued a deficiency that involved placing a patient at risk for serious harm or death.

4. The existing ASC has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing ASC is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed ASC, the ASC shall submit a plan of correction to the department for approval and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the ASC prior to the expiration of the provisional license.

1. If the follow-up survey determines that the ASC 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 ASC license.

2. If the follow-up survey determines that all non-compliance or deficiencies have not been corrected, or if new deficiencies that are a threat to the health, safety or welfare of a patient are cited on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

3. The department shall issue written notice to the ASC of the results of the follow-up survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4513. Changes in Licensee Information or Personnel

A. An ASC license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any permanent change regarding the entity ASC's name, "doing business as" name, mailing address, telephone number, stated days and hours of operation, or any combination thereof, shall be reported in writing to the department within five business days of the change.

1. For any temporary closures of the ASC greater than 24 hours, other than weekends or holidays, the ASC shall notify HSS in advance.

2. At any time that the ASC has an interruption in services or a change in the licensed location due to an emergency situation, the ASC shall notify HSS no later than the next stated business day.

C. Any change regarding the ASC's key administrative personnel shall be reported in writing to the department within 10 days of the change.

1. Key administrative personnel include the:

- a. administrator; and
- b. director of nursing.

2. The ASC's notice to the department shall include the individual's:

- a. name;
- b. address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the ASC shall be reported in writing to the department within five days of the change. A CHOW may include one of the following.

1. Partnership. In the case of a partnership, the removal, addition, or the substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

2. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

3. Corporation. The merger of the ASC corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

E. The license of an ASC is not transferable or assignable and cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a

new license and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

1. An ASC that is under license revocation, provisional licensure and/or denial of license renewal may not undergo a CHOW.

2. If the CHOW results in a change of geographic address, an on-site survey shall be required prior to issuance of the new license.

F. If the ASC changes its name without a change in ownership, the ASC shall report such change to the department in writing five days prior to the change. The change in the ASC's name requires a change in the license and payment of the required fee for a name change and re-issuance of a license.

G. Any request for a duplicate license shall be accompanied by the applicable required fee.

H. If the ASC changes the physical address of its geographic location without a change in ownership, the ASC shall report such change to the department in writing at least six weeks prior to the change. Because the license of an ASC is valid only for the geographic location of that ASC, and is not transferrable or assignable, the ASC shall submit a new licensing application and all of the required fees, licensing inspection reports, and licensing plan reviews for the new location.

1. An on-site survey shall be required prior to the issuance of the new license.

2. The change in the ASC's physical address results in a new anniversary date and the full licensing fee shall be paid.

I. An ASC that enters into a use agreement shall submit written notification to the department within five days of the effective date of the agreement. This notice shall include:

1. a copy of the signed use agreement;
2. the designated days and hours of operation that each entity/individual will be using the licensed ASC; and
3. the type of surgical procedures, by specialty, that each entity/individual will be performing at the licensed ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4515. Renewal of License

A. The ASC 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. the license renewal application;
2. the non-refundable license renewal fee;
3. the stated days and hours of operation;
4. a current State Fire Marshal report;
5. a current OPH inspection report;
6. proof of each insurance coverage as follows:
 - a. general liability insurance of at least \$300,000 per occurrence;
 - b. worker's compensation insurance of at least \$100,000 as required by state law;
 - c. professional liability insurance of at least \$300,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof

of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF);

i. if the ASC is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate;

d. the LDH Health Standards Section shall specifically be identified as the certificate holder on the any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent);

7. proof of a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

8. statement of attestation of ASC compliance with the provisions of §4581; and

9. any other documentation required by the department or CMS if applicable.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the ASC license. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the ASC.

D. If an existing licensed ASC has been issued a notice of license revocation, suspension or termination, and the ASC's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the ASC regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the ASC shall be allowed to continue to operate and provide services until such time as the administrative tribunal or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the ASC pose an imminent or immediate threat to the health, welfare, or safety of a patient, the imposition of such action 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 ASC will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

E. 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 ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4517. Survey Activities

A. The department may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing ASCs and to ensure patient health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. The department may require an acceptable plan of correction from the ASC for any survey where deficiencies

have been cited, regardless of whether the department takes other action against the ASC for the deficiencies cited in the survey. The acceptable plan of correction shall be submitted for approval to the department within the prescribed timeframe.

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

D. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions may include, but are not limited to:

1. civil fines;
2. directed plans of correction;
3. denial of license renewal; and/or
4. license revocation.

E. LDH surveyors and staff shall be:

1. given access to all areas of the ASC and all relevant files and other documentation as necessary or required to conduct the survey;

a. For any records or other documentation stored on-site, such shall be provided within one to two hours of surveyor request; and

b. For any records or other documentation stored off-site, such shall be provided to the surveyor for review no later than 24 hours from the time of the surveyor's request.

2. allowed to interview any facility staff, patient or other persons as necessary or required to conduct the survey; and

3. allowed to photocopy any records/files requested by surveyors during the survey process.

F. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4519. Statement of Deficiencies

A. Any statement of deficiencies issued by the department to an ASC shall be available for disclosure to the public 30 days after the ASC submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the ASC, whichever occurs first.

B. Unless otherwise provided in statute or in these licensing provisions, the ASC shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

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 HSS and will be considered timely if received by HSS within 10 calendar days of the ASC's receipt of the statement of deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration. The ASC shall be notified in writing of the results of the informal reconsideration.

5. 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, license revocations and

denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4521. Denial of Initial License, Revocation of License, Denial of License Renewal

A. The department may deny an application for an initial license or a license renewal, or may revoke a license in accordance with the provisions of the Administrative Procedure Act.

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 ASC is noncompliant with any licensing laws or regulations, or any other required statutes or regulations that present a potential threat to the health, safety or welfare of the patients.

2. The department shall 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 ASC license shall not render services to patients.

C. Voluntary Non-Renewal of a License. If the ASC fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

D. Revocation of License or Denial of License Renewal. An ASC license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ASC licensing laws, rules and regulations;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to uphold patient rights whereby deficient practices result in harm, injury or death of a patient;

4. failure to protect a patient from a harmful act by an ASC employee or other patient on the premises including, but not limited to:

a. any action which poses a threat to patient or public health and safety;

b. coercion;

d. threat or intimidation;

e. harassment;

f. abuse; or

g. neglect;

5. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in §4521.D.4;

6. failure to employ qualified personnel;

7. failure to submit an acceptable plan of correction for deficient practices cited during an on-site survey within the stipulated timeframes;

8. failure to submit the required fees, including but not limited to:

a. fees for address or name changes;

b. any fine assessed by the department; or

c. fee for a CHOW;

9. failure to allow entry into the ASC or access to requested records during a survey;

10. failure to protect patients from unsafe care by an individual employed by the ASC;

11. when the ASC staff or owner knowingly (or with reason to know) makes a false statement of a material fact in any of the following:

- a. the application for licensure;
- b. data forms;
- c. clinical records;
- d. matters under investigation by the department;
- e. information submitted for reimbursement from any payment source; or
- f. advertising.

12. conviction of a felony or entering a plea of guilty or nolo contendere to a felony by an owner, administrator, director of nursing, or medical director as evidenced by a certified copy of the conviction;

13. failure to comply with all of the reporting requirements in a timely manner as requested by the department;

14. failure to comply with the terms and provisions of a settlement agreement with the department or an educational letter;

15. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment; or

16. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department.

E. In the event an ASC license is revoked, renewal is denied or the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director or administrator of such ASC is prohibited from owning, managing, directing or operating another ASC 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. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4523. 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 ASC in writing.

B. The ASC 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 informal reconsideration of a voluntary non-renewal or surrender of a license by the ASC.

1. The request for the administrative reconsideration shall be submitted within 15 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 HSS.

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 ASC will receive

written notification of the date of the administrative reconsideration.

4. The ASC 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 ASC will be notified in writing of the results of the administrative reconsideration.

C. The ASC 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 ASC.

1. The ASC shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration.

a. The ASC may forego its rights to an administrative reconsideration, and if so, shall request the administrative appeal within 30 days of the receipt of the notice of the initial license denial, license revocation or denial of license renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the DAL. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the ASC 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 ASC pose an imminent or immediate threat to the health, welfare or safety of a patient, 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 ASC will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the denial of initial licensure, revocation or denial of license renewal shall not be a basis for an administrative appeal.

D. If an existing licensed ASC has been issued a notice of license revocation, and the ASC's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

E. If a timely administrative appeal has been filed by the ASC on an initial license denial, denial of license renewal or license revocation, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final decision is to reverse the initial license denial, denial of license renewal or license revocation, the ASC'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 decision is to affirm the denial of license renewal or license revocation, the ASC shall stop rendering services to patients.

a. Within 10 days of the final decision, the ASC shall notify HSS, in writing, of the secure and confidential location where the patient records will be stored.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new ASC or the issuance of a provisional license to an existing ASC. An ASC that 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 revocation.

G. An ASC with a provisional initial license or an existing ASC 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 of the validity of the deficiencies cited at the follow-up survey.

1. The correction of a violation, noncompliance or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The ASC shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt of the notice of the results of the follow-up survey from the department.

4. The ASC shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the DAL.

5. An ASC with a provisional initial license or an existing ASC with a provisional license that expires under the provisions of this Chapter shall cease providing services to patients unless the DAL issues a stay of the expiration.

a. The stay may be granted by the DAL upon application by the ASC 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 patients being served by the ASC.

6. If a timely administrative appeal has been filed by the ASC with a provisional initial license that has expired, or by an existing ASC whose provisional license has expired under the provisions of this Chapter, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

a. If the final decision is to remove all deficiencies, the ASC's license will be re-instated upon the payment of any outstanding sanctions and licensing or other fees due to the department.

b. If the final decision is to uphold the deficiencies thereby affirming the expiration of the provisional license, the ASC shall cease rendering services to patients.

i. Within 10 days of the final decision, the ASC shall notify HSS in writing of the secure and confidential location where the patient records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4525. Cessation of Business

A. Except as provided in §4583 and §4585 of these licensing regulations, a license shall be immediately null and void if an ASC ceases to operate.

B. A cessation of business is deemed to be effective the date on which the ASC stopped offering or providing services to the community.

C. Upon the cessation of business, the ASC 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 ASC. The ASC does not have a right to appeal a cessation of business.

E. The ASC shall notify the department in writing 30 days prior to the effective date of the closure or cessation. In addition to the notice, the ASC shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed provider's patients medical records; and
3. 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.

F. If an ASC fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an ASC for a period of two years.

G. Once the ASC has ceased doing business, the center shall not provide services until the ASC has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter B. Administration and Organization

§4531. Governing Body

A. An ASC shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the ASC, which shall include use agreements and all contracts. The governing body is the ultimate governing authority of the ASC and shall adopt bylaws which address its responsibilities. No contract or other arrangements, including use agreements, shall limit or diminish the responsibilities of the governing body.

B. An ASC shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office for any officers.

C. The governing body shall be comprised of one or more persons and shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings, and the bylaws shall specify the frequency of meetings and quorum requirements.

D. The governing body of an ASC shall:

1. ensure the ASC's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

2. ensure that the ASC is adequately funded and fiscally sound which entails:

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 of at least \$100,000 or the cost of three months of operation, whichever is less;

3. review and approve the ASC's annual budget;

4. designate a person to act as the administrator and delegate sufficient authority to this person to manage the day-to-day operations of the ASC;

5. annually evaluate the administrator's performance;

6. have the authority to dismiss the administrator;

7. formulate and annually review, in consultation with the administrator, written policies and procedures concerning the ASC's philosophy, goals, current services, personnel practices, job descriptions, fiscal management, contracts and use agreements;

a. the ASC's written policies and procedures shall be maintained within the ASC and made available to all staff at all times;

8. determine, in accordance with state law, which practitioners are eligible candidates for appointment to the medical staff and make the necessary appointments;

9. determine, in conjunction with the medical staff, whether the ASC will provide services beyond the customary hours of operation by allowing a patient to stay up to 23 hours. If permitted the ASC shall provide continuous physician (on call & available to be on-site as needed) and professional nursing services (registered nurse) on-site. In addition, the ASC shall provide for ancillary services to accommodate patient needs during this extended stay including but not limited to medication and nutrition;

10. ensure and maintain quality of care, inclusive of a quality assurance/performance improvement process that measures patient, process, and structural (e.g. system) outcome indicators to enhance patient care;

11. ensure that surgical or invasive procedures shall not be performed in areas other than the operating room or other designated and approved treatment rooms;

12. ensure that surgical or invasive procedures are initiated in accordance with acceptable standards of practice, which includes the use of standard procedures, such as a timeout to ensure proper identification of the patient and

surgical site, in order to avoid wrong site, wrong person or wrong procedure errors;

13. meet with designated representatives of the department whenever required to do so;

14. inform the department, or its designee, prior to initiating any substantial changes in the services provided by the ASC; and

15. ensure that pursuant to R.S. 40:1191.2, prior to the final disposition of a miscarried child, but not more than 24 hours after a miscarriage occurs in an ASC, the ASC shall notify the patient, or if the patient is incapacitated, the spouse of the patient, both orally and in writing, of both of the following:

a. the parent's right to arrange for the final disposition of the miscarried child through the use of the notice of parental rights form as provided for in R.S. 40:1191.3; and

b. the availability of a chaplain or other counseling services concerning the death of the miscarried child, if such services are provided by the ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4533. Policy and Procedures

A. An ASC, through collaboration by the administrator, medical staff, director of nursing, pharmacist, and other professional persons deemed appropriate by the ASC, shall develop, implement and maintain written policies and procedures governing all services rendered at the ASC. The ASC shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

B. All policies and procedures shall be reviewed at least annually and revised as needed.

C. Direct care and medical staff shall have access to information concerning patients that is necessary for effective performance of the employee's assigned tasks.

D. The ASC shall have written policies and procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

E. The ASC shall allow designated representatives of the department, in the performance of their mandated duties, to:

1. inspect all aspects of an ASC's operations which directly or indirectly impact patients; and

2. interview any physician, staff member or patient.

F. An ASC shall make any required information or records, and any information reasonably related to assessment of compliance with these provisions, available to the department.

G. An ASC shall, upon request by the department, make available the legal ownership documents, use agreements and any other legal contracts or agreements in place.

H. The ASC shall have written policies and procedures approved by the 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. patient rights;
6. grievance procedures;
7. emergency preparedness;
8. abuse and neglect;
9. incidents and accidents, including medical emergencies;
10. universal precautions;
11. documentation, whether electronic or in paper form;
12. admission and discharge procedures;
13. hours outside of stated usual and customary operation, including but not limited to early closures, extended business hours and holidays; and
14. conditions for coverage, if applicable.

I. An ASC shall have written personnel policies, which shall be implemented and followed, that include:

1. written job descriptions for each staff position, including volunteers;
2. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the ASC and in accordance with *LAC Title 51, Public Health Sanitary Code* guidelines;
3. policies which verify that all physicians, clinic employees, including contracted personnel and personnel practicing under a use agreement, prior to, and at the time of employment and annually thereafter, shall be free of tuberculosis in a communicable state, in accordance with the current *LAC Title 51 Public Health Sanitary Code*.
4. an employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment, whether that abuse or mistreatment is done by another staff member, a family member, a patient or any other person;
6. a written policy to prevent discrimination; and
7. 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 restrictive use of social media and include, at a minimum, ensuring confidentiality of patient information and preservation of patient dignity and respect, including protection of patient privacy and personal and property rights.

J. The ASC shall maintain, in force at all times, the requirements for financial viability under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Admissions, Transfers and Discharges

§4539. Admissions and Assessments

A. Each ASC shall have written admission and assessment policies and criteria.

B. An individual or entity that enters into a use agreement with a licensed ASC shall be required to adhere to all of the provisions of this Section.

C. An ASC shall ensure that each patient has the appropriate pre-surgical and post-surgical assessments completed, inclusive of suitability for less than 23 hour timeframe of patient stay, ability of the ASC to provide services needed in the post-operative period in accordance with prescribed plan of care, and discharge plans to home or another licensed facility setting.

D. Within 30 days prior to the date of the scheduled surgery, each patient shall have a comprehensive medical history and physical assessment completed by a physician or other qualified licensed professional practitioner in accordance with applicable state health and safety laws, ASC policies, and standards of practice.

E. The history and physical assessment prior to surgery shall specify that the patient is medically cleared for surgery in an ambulatory setting and is required on all patients regardless of whether the patient is referred for surgery on the same day that the referral is made and the referring physician has indicated that it is medically necessary for the patient to have the surgery on the same day.

F. Upon admission, each patient shall have a pre-surgical assessment completed by a physician or other qualified licensed health practitioner. The pre-surgical assessment shall include, at a minimum:

1. an updated medical record entry documenting an examination for any changes in the patient's condition since completion of the most recently documented medical history and physical assessment; and
2. documentation of any known allergies to drugs and/or biological agents.

G. The patient's medical history and physical assessment shall be placed in the patient's medical record prior to the surgical procedure.

H. The patient's post-surgical condition shall be assessed and documented in the medical record by a physician, other licensed medical practitioner, or a registered nurse (RN) with, at a minimum, the required post-operative care experience in accordance with applicable state health and safety laws, ASC policies and standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4541. Transfer Agreements and Patient Transfers

A. The ASC shall secure a written transfer agreement with at least one hospital in the community. A transfer agreement shall serve as evidence of a procedure whereby patients can be transferred to a hospital should an emergency arise which would necessitate hospital admission.

1. If a written transfer agreement is established with a hospital in the community, medical staff at the ASC shall still be required to adhere to the provisions of §4541.B and C.

2. If the ASC is not able to secure a written transfer agreement, the ASC's compliance with §4541.C shall substantiate the ASC's capability to obtain hospital care for a patient if the need arises.

B. Each member of the medical staff of the ASC, including physicians who practice under a use agreement, shall be a member in good standing on the medical staff of at least one hospital in the community and that hospital shall be licensed by the department. Members of the ASC medical staff shall be granted surgical privileges compatible with privileges granted by the hospital for that physician.

C. The admitting physician of the ASC shall be responsible for effecting the safe and immediate transfer of patients from the ASC to a hospital when, in his/her medical opinion, hospital care is indicated.

D. The ASC is responsible for developing written policies and procedures for the safe transfer of patients and

coordination of admission, when necessary, into an inpatient facility. The written policy shall include, but is not limited to:

1. identification of the ASC personnel who shall be responsible for the coordination of admission into an inpatient facility;
2. procedures for securing inpatient services; and
3. procedures for the procurement of pertinent and necessary copies of the patient's medical record that will be sent with the transferring patient so that the information may be included in the patient's inpatient medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4543. Discharges

A. Each ASC shall have written discharge policies and procedures. The written description of discharge policies shall be provided to the department upon request and made available to the patient or his/her legal representative. The ASC shall ensure that all elements of the discharge requirements are completed.

B. Any individual or entity that enters into a use agreement with a licensed ASC shall be required to adhere to all of the provisions of this Section.

C. The post-surgical needs of each patient shall be addressed and documented in the discharge notes.

D. Upon discharge, the ASC shall:

1. provide each patient with written discharge instructions;
2. provide each patient with all supplies deemed medically necessary per the discharge orders, excluding medications;
3. make the follow-up appointment with the physician, when appropriate; and
4. ensure that all patients are informed, either in advance of their surgical procedure or prior to leaving the ASC, of the following:
 - a. necessary prescriptions;
 - b. post-operative instructions; and
 - c. physician contact information for follow-up care.

E. The ASC shall ensure that each patient has a discharge order signed by the physician who performed the surgery or procedure.

F. The ASC shall ensure and document that all patients are discharged in the company of a responsible adult, except those patients exempted by the attending physician. Such exemptions shall be specific and documented for individual patients. Blanket exemptions are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Service Delivery

§4549. Surgical Services

A. Surgical services shall be well organized and provided in accordance with current acceptable standards of practice adopted from national associations or organizations.

B. Private areas should include pre- and post-operative care areas and should allow for parental presence for pediatric patients.

C. The ASC shall ensure that the scheduled surgeries do not exceed the capabilities of the surgical center, including

the post-anesthesia care area, and any length of patient does not exceed 23 hours from patient admission to discharge from the ASC.

D. At least one RN trained in the use of emergency equipment and certified in advanced cardiac life support (ACLS) and/or pediatric advanced life support (PALS), if a pediatric patient is present, shall be immediately available whenever there is a patient in the ASC.

E. A roster of physicians and other medical practitioners, specifying the surgical privileges of each, shall be kept in the surgical center and available to all professional staff.

F. Medical staff and approved policies shall define which surgical procedures require a qualified first assistant physician, registered nurse or surgical technician.

1. A registered nurse or a surgical technician may be a surgical assistant if the individual:

- a. has been approved by the medical director and director of nurses;
- b. has documented competency and training to assist in such procedures; and
- c. is acting within the scope of practice of his/her respective licensing board(s) and/or certification(s).

G. An operating and procedure room register shall be accurately maintained and kept up-to-date and complete. This register shall be maintained for a five year period. The register shall include, at a minimum, the:

1. patient's complete name;
2. patient's ASC identification number;
3. physician's name;
4. date of the surgery/procedure; and
5. type of surgery/procedure performed.

H. An RN shall be assigned to, and directly responsible for, the post-anesthesia care area. There shall be a sufficient number of nurses assigned to the post-anesthesia care area to meet the nursing needs of patients in recovery. At a minimum, one licensed RN and one direct care staff shall be onsite and available for the length of any patient stay in the ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4551. Anesthesia Services

A. Anesthesia services shall be available when surgical services are provided.

B. Anesthesia services shall be provided in a well-organized manner under the direction of an anesthesiologist or the treating physician who is licensed and in good standing with the State Board of Medical Examiners.

C. Anesthesia services and/or conscious sedation shall be administered by licensed practitioners with clinical privileges for which they have been licensed, trained and determined to be competent to administer anesthesia and/or conscious sedation in accordance with their respective state licensing board.

D. Anesthesia and conscious sedation may be administered by the following practitioners who are qualified to administer anesthesia under state law and within the scope of their practice:

1. anesthesiologists;
2. doctors of medicine or osteopathy;
3. dentists or oral surgeons;

4. podiatrists;
5. certified registered nurse anesthetists (CRNAs) licensed by the State Board of Nursing who are under the supervision of a physician or an anesthesiologist who is immediately available if needed, as defined in the medical staff bylaws; and

6. registered nurses who have documented education and demonstrated competency to administer minimal or moderate sedation in accordance with the Nurse Practice Act, and who are under the supervision of the treating physician.

a. The RN (non-CRNA) monitoring the patient shall have no additional responsibility that would require leaving the patient unattended or would compromise continuous monitoring during the procedure.

E. The practitioner administering the anesthesia and/or conscious sedation shall be present and immediately available during the post-anesthesia recovery period until the patient is assessed as stable in accordance with the ASC's established criteria.

F. The ASC shall develop policies and procedures which are approved by the governing body including, but not limited to:

1. staff privileges of licensed personnel that administer anesthesia;

2. delineation of pre-anesthesia and post-anesthesia responsibilities;

3. the qualifications, responsibilities and supervision required of all licensed personnel who administer any type or level of anesthesia;

4. patient consent for anesthesia, including the American Society of Anesthesiologists (ASA) Physical Status Classification System;

5. infection control measures;

6. safety practices in all anesthetizing areas;

7. protocol for supportive life functions, e.g., cardiac and respiratory emergencies;

8. reporting requirements;

9. documentation requirements;

10. inspection and maintenance reports on all of the supplies and equipment used to administer anesthesia; and

11. monitoring of trace gases and reporting requirements.

G. Anesthesia policies shall ensure that the following are provided for each patient:

1. a pre-anesthesia evaluation performed and recorded immediately prior to surgery to evaluate the risk of anesthesia and of the procedure to be performed by an individual qualified to administer anesthesia;

2. an intra-operative anesthesia record that records monitoring of the patient during any type or level of anesthesia and documentation of at least the following:

a. prior to induction of any type or level of anesthesia, all anesthesia drugs and equipment to be used have been checked and are immediately available and are determined to be functional by the practitioner who is to administer the anesthetic;

b. dosages of each drug used, including the total dosages of all drugs and agents used;

c. type and amount of all fluid(s) administered, including blood and blood products;

d. estimated blood loss;

e. technique(s) used;

f. unusual events during the anesthesia period;

g. the status of the patient at the conclusion of any type or level of anesthesia; and

h. a post-anesthesia report written prior to discharge of the patient by the individual who administers the anesthesia or another fully qualified practitioner within the anesthesia department; and

3. policies developed, approved and implemented that define:

a. minimal, moderate and deep sedation;

b. the method of determining the sedation status of the patient;

c. how the sedation is to be carried out;

d. who is to be present while the patient is under any type or level of anesthesia; and

e. what body systems are to be monitored and equipment to be used with each type of anesthesia administered.

H. Anesthesia policies and procedures shall be developed and approved for all invasive procedures including, but not limited to:

a. percutaneous aspirations and biopsies;

b. cardiac and vascular catheterization; and

c. endoscopies.

I. The ASC shall adopt an individualized patient identification system for all patients who:

1. are administered general, spinal or other types of anesthesia; and

2. undergo surgery or other invasive procedures when receiving general, spinal or other major regional anesthesia and/or intravenous, intramuscular or inhalation sedation/analgesia, including conscious sedation that, in the manner used in the ASC, may result in the loss of the patient's protective reflexes.

J. The ASC shall develop, approve and implement policies and procedures to ensure that the following requirements are met for each patient undergoing:

1. general anesthesia/total intravenous anesthesia:

a. the use of an anesthesia machine that provides the availability and use of safety devices including, but not limited to:

i. an oxygen analyzer;

ii. a pressure and disconnect alarm;

iii. a pin-index safety system;

iv. a gas-scavenging system; and

v. an oxygen pressure interlock system;

b. continuous monitoring of the patient's temperature and vital signs, as well as the continuous use of:

i. an electrocardiogram (EKG/ECG);

ii. a pulse oximetry monitor; and

iii. an end tidal carbon dioxide volume monitor;

2. monitored anesthesia care (MAC):

a. monitored anesthesia care includes the monitoring of the patient by an anesthesiologist and/or a CRNA. Indications for MAC depend on the nature of the procedure, the patient's clinical condition, and/or the potential need to convert to a general or regional anesthetic. Deep sedation/analgesia is included in MAC;

b. equipment sufficient to maintain the patient's airway and ventilatory function shall be immediately

available and in the OR/procedure room where the procedure is being performed;

c. continuous monitoring of the patient's vital signs and temperature as well as continuous use of an EKG/ECG and pulse oximetry monitor; and

d. monitoring by the licensed practitioner who administers the anesthetic;

3. conscious sedation;

a. policies and procedures shall be developed, approved, and implemented by the medical staff as to the need for pre-operative cardiac and pulmonary assessments of patients prior to being administered conscious sedation; and

b. there shall be a minimum requirement of a registered nurse to continuously monitor the patient who is receiving conscious sedation.

4. regional anesthesia (major nerve blocks);

a. equipment sufficient to maintain the patient's airway and to convert the case to another form of anesthesia shall be immediately available and in the operating/procedure room where the procedure is being performed;

b. continuous monitoring of the patient's vital signs and temperature, as well as the continuous use of an EKG/ECG and pulse oximetry monitor;

c. monitoring by the licensed practitioner who administers the regional anesthetic;

5. local anesthesia (infiltration or topical);

a. continuous monitoring of the patient's vital signs and temperature as well as the continuous use of an EKG/ECG and pulse oximetry monitor; and

b. local anesthesia, interpreted to mean those anesthetizing agents administered and affecting a very small localized area that may be administered by the treating physician.

K. The ASC shall develop, approve and implement policies and procedures regarding qualifications and duties of all licensed personnel who administer any type or level of anesthesia.

L. Policies and procedures shall be developed, approved and implemented in accordance with manufacturer's guidelines for the equipment and medications to be used to administer any level or type of anesthesia.

M. Policies and procedures shall be developed, approved, and implemented as stipulated under the current state licensing boards for patients undergoing any level or type of anesthesia sedation. The patient under sedation shall be monitored for blood pressure, respiratory rate, oxygen saturation, cardiac rate and rhythm and level of consciousness. This information shall be recorded at least every five minutes during the therapeutic, diagnostic or surgical procedure and, at a minimum, every 15 minutes during the recovery period or more frequently as deemed appropriate by the authorized prescriber.

N. The ASC shall define in policy and procedures whether the use of reversal agents is to be considered an adverse patient event.

O. The patient shall be kept in the recovery room until assessed by a qualified anesthesia professional as being stable in accordance with the ASCs established criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4553. Radiology Services

A. All ASCs shall provide radiology services commensurate with the needs of the ASC and to meet the needs of the patients being served.

B. The scope and complexity of radiological services provided within the ASC, either directly or under arrangement, as an integral part of the ASC's services should be specified in writing and approved by the governing body.

C. The ASC is equally responsible for the compliance of radiological services performed in the ASC, regardless of whether the service is provided directly by the ASC or under arrangement.

D. Radiological determinations made by the physician within 72 hours prior to admission shall be acceptable if documented by the physician on the patient's medical record and the determinations conform to the medical staff bylaws and rules and regulations of the center.

E. All radiological determinations shall be in writing and the original shall be a part of the patient's chart.

F. When radiology services are provided by the ASC directly, at a minimum, the following criteria shall be met.

1. The ASC shall comply with periodic inspections of equipment and testing for radiation hazards, and shall promptly correct any identified problems.

2. Radiologic services shall be provided in an area of sufficient size and arrangement to provide for the safety of personnel and patients.

3. Supervision of radiologic services should be appropriate to the types of procedures conducted by the ASC.

4. The ASC governing body is responsible for the oversight and accountability for the quality assessment and performance improvement program, and is responsible for ensuring that all policies and services provide quality healthcare in a safe environment.

5. The governing body is responsible for determining if any procedures, now or in the future, require additional review by a radiologist.

6. The governing body is accountable for the medical staff to ensure that such staff members are legally and professionally qualified for the positions to which they are appointed and for the performance of the privileges granted.

7. The treating physician is expected to demonstrate documented competency in using imaging as an integral part of the surgery or procedure.

8. A licensed practitioner who is qualified by education and experience in accordance with state law, rules and regulations and in accordance with ASC policy shall supervise the provision of radiologic services.

a. For purposes of this Section, a licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic or osteopathy in this state, or an advanced practice registered nurse licensed to practice in this state.

9. Radiologic reports shall be signed by the licensed medical practitioner who reads and interprets the reports.

10. The ASC shall adopt written policies and procedures to ensure that radiologic services are rendered in a manner which provides for the safety and health of patients and ASC personnel. At a minimum, the policies and procedures shall cover the following:

a. shielding for patients and personnel;

- b. storage, use and disposal of radioactive materials;
- c. documented periodic inspection of equipment and handling of identified hazards;
- d. documented periodic checks by exposure meters or test badges on all personnel working around radiological equipment which shall also include knowledge of exposure readings at other places of employment;
- e. managing medical emergencies in the radiologic department; and
- f. methods for identifying pregnant patients.

11. Only personnel who are registered and/or licensed in the appropriate radiologic technology modality or category by the State Radiologic Technology Board of Examiners and designated as qualified by the medical staff may use the radiologic equipment and administer procedures under the direction of a physician

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4555. Laboratory Services

A. The ASC shall either provide a clinical laboratory directly or make contractual arrangements with a laboratory certified in accordance with the Clinical Laboratory Improvement Amendments to perform services commensurate with the needs of the ASC.

B. Contractual arrangements for laboratory services shall be deemed as meeting the requirements of this Section when those arrangements contain written policies and procedures defining the scope of services.

C. When laboratory services are provided directly by the ASC, the services shall be performed by a qualified and/or licensed person with documented training and experience to supervise and perform the testing.

1. The ASC shall have sufficient numbers of licensed clinical laboratory and supportive technical staff to perform the required tests.

2. The laboratory shall be of sufficient size and adequately equipped to perform the necessary services of the ASC.

D. Written laboratory policies and procedures shall be developed and implemented for all laboratory services provided directly by the center and/or by contractual arrangement. Policies shall define “stat” labs and the timelines for processing and reporting “stat” labs.

E. Written reports of all ASC performed and contractually performed lab results shall be made a part of the patient’s medical record.

F. Documentation shall be maintained for preventive maintenance and quality control programs governing all types of analyses performed in the laboratory.

G. The ASC shall make provisions for the immediate pathological examination of tissue specimens by a pathologist, if applicable. The pathology report shall be made part of the patient’s medical record.

H. Handling of Blood and Blood Products

1. Written policies and procedures shall be developed, approved by the governing body and implemented by the ASC, relative to the administration of blood and blood products as well as any medical treatment and notification of the treating physician in the event of an adverse reaction.

2. If the treating physician determines that blood and blood products shall be administered, the ASC shall provide for the procurement, safekeeping and transfusion of the blood and blood products so that it is readily available.

3. The administration of blood shall be monitored by the registered nurse to detect any adverse reaction. Prompt investigation of the cause of an adverse reaction shall be instituted and reported according to ASC policy and procedures.

4. If the ASC regularly uses the services of an outside blood bank, the ASC shall have a written agreement with the blood bank whereby the ASC is promptly notified by the blood bank of blood or blood products that have been determined at increased risk of transmitting infectious disease.

5. The ASC shall have a system in place which is defined in a “look back” policy and procedure for appropriate action to take when notified that blood or blood products that the ASC has received are at increased risk of transmitting infectious disease. The look back policy shall include, but not be limited to:

- a. quarantine of the contaminated products;
- b. documented notification to the patient or legal representative and the patient’s physician; and
- c. the safe and sanitary disposal of blood and blood products not suitable for distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4557. Pharmaceutical Services

A. The ASC shall provide pharmacy services commensurate with the needs of the patients and in conformity with state and federal laws. Pharmacy services may be provided directly by the ASC or under a contractual agreement as long as all regulatory requirements are met.

1. At a minimum, the ASC shall designate a qualified and licensed healthcare professional to provide direction to the ASC’s pharmaceutical service.

B. All ASCs shall have a controlled dangerous substance license issued by the Board of Pharmacy and a Drug Enforcement Agency (DEA) license allowing for the ordering, storage, dispensing and delivery of controlled substances to patients.

C. Drugs and biologicals shall be provided safely and in an effective manner, consistent with accepted professional standards of pharmaceutical practice.

D. When the ASC provides pharmaceutical services, there shall be a current permit issued by the Board of Pharmacy.

E. The designated licensed healthcare professional responsible for pharmaceutical services shall maintain complete, current and accurate records of all drug transactions by the pharmacy.

1. Current and accurate records shall be maintained on the receipt, distribution, dispensing and/or destruction of all scheduled drugs in such a manner as to facilitate complete accounting for the handling of these controlled substances.

F. Dispensing of prescription legend or controlled substance drugs directly to the public or patient by vending machines is prohibited.

G. Medications are to be dispensed only upon written or verbal orders from a licensed medical practitioner. All verbal orders shall be taken by a licensed medical professional.

H. The designated licensed healthcare professional responsible for pharmaceutical services shall assist the center in the development of policies and procedures to:

1. address the distribution, storage and handling of drugs;
2. monitor drug and medication-related activities; and
3. immediately notify the director of nurses to return drugs to the pharmacy or contracted pharmacist for proper disposition in the event of a drug recall.

I. The designated licensed healthcare professional responsible for pharmaceutical services shall assist the ASC with drug administration errors, adverse drug reactions and incompatibilities of medications, and shall report data relative to these issues to the quality assessment performance improvement committee.

J. The designated licensed healthcare professional responsible for pharmaceutical services shall assist the ASC in developing a formulary of medications that will be available for immediate patient use.

K. The designated licensed healthcare professional responsible for pharmaceutical services shall ensure that medication and supplies are on-site at all times and immediately available for the management of malignant hyperthermia, where applicable, based upon the type and level of anesthesia delivered and all other anesthesia-related complications.

L. The consultant pharmacist shall provide consultation to the ASC on an as needed basis and consistent with provisions of the State Board of Pharmacy. The consultations shall be documented in writing showing the date, amount of time spent, subjects reviewed and recommendations made.

M. All drug errors, adverse drug reactions and incompatibilities of medications shall be entered into the patient's medical record and reported according to federal and state laws and per ASC policy and procedure.

N. The ASC shall provide for a drug administration storage area which allows for the proper storage, safeguarding and distribution of drugs. All drug cabinets or drug storage areas at the nursing station(s) are to be constructed and organized to ensure proper handling and safeguard against access and removal by unauthorized personnel. All drug cabinets or drug storage areas are to be kept clean, in good repair and are to be inspected each month by a designated licensed healthcare professional responsible for pharmaceutical services. Compartments appropriately marked shall be provided for the storage of poisons and external use drugs and biological, separate from internal and injectable medications.

O. All drug storage areas shall have proper controls for ventilation, lighting and temperature. Proper documentation shall be maintained relative to routine monitoring of temperature controls.

P. Drugs and biologicals that require temperature controlled refrigeration shall be refrigerated separately from food, beverages, blood and laboratory specimens.

Q. Locked areas that maintain medications, including controlled substances, shall conform to state and federal laws and the ASC's policies and procedures.

R. Unit dose systems shall include on each unit dose the:

1. name of the drug;
2. strength of the drug;
3. lot and control number or equivalent; and
4. expiration date.

S. Outdated, mislabeled or otherwise unusable drugs and biologicals shall:

1. be separated from useable stock;
2. not be available for patient use or other use; and
3. be returned to an authorized agency for credit or destroyed according to current state and/or federal laws as applicable.

T. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the chief executive officer or administrator, the director of nurses, the Board of Pharmacy, and to the Regional DEA office, and according to ASC policy and procedure.

U. Any medications administered to a patient shall be administered only as ordered by a licensed medical practitioner and shall have documentation entered into the patient's medical record of the name of the drug, amount, route, the date and time administered, response and/or any adverse reactions to medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4559. Stereotactic Radiosurgery Services

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool are exempt from the following requirements:

1. having a minimum of two operating/procedure rooms and one post-anesthesia recovery room within the ASC;
2. caseload shall not exceed the capabilities of the surgical center including the recovery room;
3. the surgical area shall be located within the facility as to be removed from the general lines of traffic of both visitors and other ASC personnel; and
4. the following requirements:
 - a. scrub station(s) shall be provided directly adjacent to the entrance to each operating or procedure room;
 - b. a scrub station may serve two operating or procedure rooms if it is located directly adjacent to the entrances to both; and
 - c. scrub stations shall be arranged to minimize splatter on nearby personnel or supply carts.

B. The aforementioned exemptions do not apply to ASCs performing surgical procedures in conjunction with stereotactic radiosurgery.

C. These facilities shall be responsible for compliance with these licensing standards and any applicable state and federal laws, rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. Facility Responsibilities

§4565. General Provisions

A. Ambulatory surgical centers shall comply and show proof of compliance with all relevant federal, state, local rules and regulations. It is the ASC's responsibility to secure the necessary approvals from the following entities:

1. Health Standards Section;
2. Office of the State Fire Marshal's plan review;
3. Office of Public Health;
4. Office of the State Fire Marshal's *Life Safety Code* inspection; and
5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator or person authorized to act on behalf of the administrator shall be accessible to ASC staff or designated representatives of the department any time there is a patient in the ASC.

C. An ASC shall have qualified staff sufficient in number to meet the needs of patients and to ensure provision of services.

D. The ASC shall develop and maintain documentation of an orientation program for all employees of sufficient scope and duration to inform the individual about his/her responsibilities, how to fulfill them, review of policies and procedures, job descriptions, competency evaluations and performance expectations. An orientation program and documented competency evaluation and/or job expectations of assigned or reassigned duties shall be conducted prior to any assignments or reassignments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4567. Staffing Requirements

A. Administrative Staff. The following administrative staff is required for all ASCs:

1. a qualified administrator at each licensed geographic location who shall meet the qualifications as established in these provisions;
2. other administrative staff as necessary to operate the ASC and to properly safeguard the health, safety and welfare of the patients receiving services; and
3. an administrative staff person on-call after routine daytime or office hours for the length of any patient stay in the ASC.

B. Administrator/Director

1. Each ASC shall have a qualified administrator/director who is an on-site employee responsible for the day-to-day management, supervision and operation of the ASC on a full-time basis.

2. Any current administrator employed by a licensed and certified ASC, at the time these licensing provisions are adopted and become effective, shall be deemed to meet the qualifications of the position of administrator as long as the individual holds his/her current position. If the individual leaves his/her current position, he/she shall be required to meet the qualifications stated in these licensing provisions to be re-employed into such a position.

3. The administrator shall meet the following qualifications:

- a. possess a college degree from an accredited university; and

- b. have one year of previous work experience involving administrative duties in a healthcare facility.

4. An RN shall meet the following qualifications to hold the position of administrator:

- a. maintain a current and unrestricted RN license; and

- b. have at least one year of management experience in a health care facility;

5. Changes in administrator shall be reported to the department within 10 days.

C. Medical Staff

1. The ASC shall have an organized medical staff, including any licensed medical practitioners who practice under a use agreement with the ASC.

2. All medical staff shall be accountable to the governing body for the quality of all medical and surgical care provided to patients and for the ethical and professional practices of its members.

3. Members of the medical staff shall be legally and professionally qualified for the positions to which they are appointed and for the performance of privileges granted.

4. The medical staff shall develop, adopt, implement and monitor bylaws and rules for self-governing of the professional activity of its members. The medical staff bylaws shall be maintained within the ASC. The bylaws and rules shall contain provisions for at least the following:

- a. developing the structure of the medical staff, including allied health professionals and categories of membership;

- b. developing, implementing and monitoring to review credentials, at least every two years, and to delineate and recommend approval for individual privileges;

- c. developing, implementing and monitoring to ensure that all medical staff possess current and unrestricted Louisiana licenses and that each member of the medical staff is in good standing with his/her respective licensing board;

- d. recommendations to the governing body for membership to the medical staff with initial appointments and reappointments not to exceed two years;

- e. developing, implementing and monitoring for suspension and/or termination of membership to the medical staff;

- f. developing, implementing and monitoring criteria and frequency for review and evaluation of past performance of its individual members. This process shall include monitoring and evaluation of the quality of patient care provided by each individual;

- g. the election of officers for the ensuing year;

- h. the appointment of committees as deemed appropriate; and

- i. reviewing and making recommendations for revisions to all policy and procedures at least annually;

5. Medical staff shall meet at least semi-annually. One of these meetings shall be designated as the official annual meeting. A record of attendance and minutes of all medical staff meetings shall be maintained within the ASC.

6. A physician shall remain within the ASC until all patients have reacted and are assessed as stable.

7. The patient's attending physician, or designated on-call physician, shall be available by phone for consultation

and evaluation of the patient, and available to be onsite if needed, until the patient is discharged from the ASC.

8. Each patient admitted to the ASC shall be under the professional supervision of a member of the ASC's medical staff who shall assess, supervise and evaluate the care of the patient.

9. Credentialing files for each staff physician shall be kept current and maintained within the ASC at all times.

D. Nursing Staff. A staffing pattern shall be developed for each nursing care unit (preoperative unit, operating/procedure rooms, post anesthesia recovery area). The staffing pattern shall provide for sufficient nursing personnel and for adequate supervision and direction by registered nurses consistent with the size and complexity of the procedure(s) performed and throughout the length of any patient stay in the ASC.

1. Nursing services shall be under the direction of an RN that includes a plan of administrative authority with written delineation of responsibilities and duties for each category of nursing personnel.

2. The ASC shall ensure that the nursing service is directed under the leadership of a qualified RN. The ASC shall have documentation that it has designated an RN to direct nursing services.

3. The director of nursing (DON) shall:

a. have a current, unrestricted Louisiana RN license;

b. be in good standing with the State Board of Nursing; and

c. shall have a minimum of one year administrative experience in a health care setting and the knowledge, skills and experience consistent with the complexity and scope of surgical services provided by the ASC.

4. The RN holding dual administrative/nursing director roles shall meet the qualifications of each role.

5. Changes in the director of nursing position shall be reported in writing to the department within 10 days of the change on the appropriate form designated by the department.

6. Nursing care policies and procedures shall be in writing, formally approved, reviewed annually and revised as needed, and consistent with accepted nursing standards of practice. Policies and procedures shall be developed, implemented and monitored for all nursing service procedures.

7. There shall be a sufficient number of duly licensed registered nurses on duty at all times to plan, assign, supervise and evaluate nursing care, as well as to give patients the high quality nursing care that requires the judgment and specialized skills of a registered nurse.

a. There shall be sufficient nursing staff with the appropriate qualifications to assure ongoing assessment of patients' needs for nursing care and that these identified needs are addressed. The number and types of nursing staff is determined by the volume and types of surgery the ASC performs.

8. All professional nurses employed, contracted or working under a use agreement with the ASC shall have a current, unrestricted and valid Louisiana nursing license. Nonprofessional or unlicensed personnel employed, contracted, or working under a use agreement and

performing nursing services shall be under the supervision of a licensed registered nurse.

9. There shall be, at minimum, one RN with ACLS certification and, at minimum, one RN with PALS certification, if a pediatric population is served, on duty and immediately available at any time there is a patient in the ASC.

10. The RN who supervises the surgical center shall have documented education and competency in the management of surgical services.

11. A formalized program on in-service training shall be developed and implemented for all categories of nursing personnel, employed or contracted, and shall include contracted employees and those working under a use agreement. Training is required on a quarterly basis related to required job skills.

a. Documentation of such in-service training shall be maintained on-site in the ASC's files. Documentation shall include the:

i. training content;

ii. date and time of the training;

iii. names and signatures of personnel in attendance; and

iv. name of the presenter(s).

12. General staffing provisions for the OR/procedure rooms shall be the following:

a. Circulating duties for each surgical procedure and for any pediatric procedure shall be performed by a licensed RN. The RN shall be assigned as the circulating nurse for one patient at a time for the duration of any surgical procedure performed in the center.

b. Appropriately trained licensed practical nurses (LPNs) and operating/procedure room technicians may perform scrub functions under the supervision of a licensed registered nurse.

c. Staffing for any nonsurgical, endoscopic procedure shall be based upon the level of sedation being provided to the adult patient, the complexity of the procedure, and the assessment of the patient. The role and scope of the nurses staffing the procedure rooms shall be in accordance with the Nurse Practice Act and nursing staff shall only perform duties that are in accordance with the applicable requirements for such personnel set forth in the Nurse Practice Act. A physician shall be required to complete a pre-procedural assessment to determine the suitability of the patient for the planned level of sedation. Depending upon the level of sedation deemed appropriate and administered, at a minimum, the following staffing levels shall be utilized for each nonsurgical, endoscopic procedure:

i. Patient is Unsedated. The OR/procedure room shall be staffed with a single assistant who may be an RN, licensed practical nurse (LPN) or unlicensed assistive personnel (UAP).

ii. Patient Receives Moderate/Conscious Sedation. With moderate/conscious sedation, a single RN may administer the sedation under physician supervision, and such RN may assist only with minor, interruptible technical portions or tasks of the procedure. In accordance with the LSBN, the RN monitoring the patient shall have no additional responsibility that would require leaving the

patient unattended or that would compromise continuous monitoring during the procedure.

iii. Complex Endoscopy Procedure (with or without sedation). For any complex endoscopy procedure (e.g. ERCP, EUS/FNA, etc.), there shall be an RN in the operating/procedure room to continuously monitor the patient, and a second RN, LPN or UAP to provide technical assistance to the physician.

NOTE: For purposes of §4567.D(12)c(i)-(iii), a reference to RN may be substituted by a CRNA or advanced practiced registered nurse. Said nursing staff shall have documentation of knowledge, skills, training, ability and competency of assigned tasks.

iv. Deep Sedation. This level requires a CRNA or anesthesiologist to administer the deep sedation and to monitor the patient. There shall be a second staff person (RN, LPN or UAP) dedicated to provide technical assistance for the endoscopy procedure.

NOTE: At any level of staffing for the nonsurgical, endoscopic procedure described above, if an LPN or UAP is the assigned staff providing assistance, in addition to such LPN or UAP assigned staff in the operating/procedure room, an RN shall be immediately available in the ASC to provide emergency assistance. That RN shall not be assigned to a non-interruptible task during the duration of the procedure.

13. Post-Surgical Care Area. There shall be an RN whose sole responsibility is the post-surgical care of the patient. There shall be at least one other member of the nursing staff in the post-surgical care area(s) onsite and continually available to assist the post-surgical care RN until all patients have been discharged from the ASC.

E. General Personnel Requirements

1. All physicians and ASC employees, including contracted personnel and personnel practicing under a use agreement, shall meet and comply with these personnel requirements.

2. All physicians and ASC employees, including contracted personnel and personnel practicing under a use agreement, prior to and at the time of employment and annually thereafter, shall be verified to be free of tuberculosis in a communicable state in accordance with the ASC's policies and procedures and current Centers for Disease Control (CDC) and OPH recommendations.

3. All unlicensed staff involved in direct patient care and/or services shall be supervised by a qualified professional employee or staff member.

4. A personnel file shall be maintained within the ASC on every employee, including contracted employees and personnel providing services under a use agreement. Policies and procedures shall be developed to determine the contents of each personnel file. At a minimum, all personnel files shall include the following:

- a. an application;
- b. current verification of professional licensure;
- c. health care screenings as defined by the ASC;
- d. orientation and competency verification;
- e. annual performance evaluations;
- f. criminal background checks for UAPs, prior to offer of direct or contract employment after the effective date of this Rule, as applicable and in accordance with state law. The criminal background check shall be conducted by the Louisiana State Police or its authorized agent; and
- f. any other screenings required of new applicants by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4569. Medical Records

A. Each ASC shall make provisions for securing medical records of all media types, whether stored electronically or in paper form. The identified area or equipment shall be secured to maintain confidentiality of records and shall be restricted to staff movement and remote from treatment and public areas.

B. All records shall be protected from loss or damage.

C. The ASC shall have a designated area located within the ASC which shall provide for the proper storage, protection and security for all medical records and documents.

D. The ASC shall develop a unique medical record for each patient. Records may exist in hard copy, electronic format or a combination thereof.

E. ASCs that enter into a use agreement shall integrate the medical records of patients into the medical records of the ASC and shall comply with all requirements of this Section.

F. The ASC shall ensure the confidentiality of patient records, including information in a computerized medical record system, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Regulations and any state laws, rules and regulations.

1. If computerized records are used, the ASC shall develop:

- a. a back-up system for retrieval of critical medical records;
- b. safeguards/firewalls to prevent unauthorized use and access to information; and
- c. safeguards/firewalls to prevent alterations of electronic records.

G. A unique medical record shall be maintained for every patient admitted and/or treated.

H. The medical record cannot become part of any other medical record associated with another entity.

I. The following data shall be documented and included as part of each patient's basic medical record:

1. unique patient identification;
2. admission and discharge date(s) and times;
3. medical and social history;
4. physical examination notes in accordance with medical staff bylaws, policies and procedures;
5. chief complaint or diagnosis;
6. physician's orders;
7. clinical laboratory report(s);
8. pathology report(s), when appropriate;
9. radiological report(s), when appropriate;
10. consultation report(s), when appropriate;
11. medical and surgical treatment regimen;
12. physician progress notes;
13. nurses' records of care provided and medications administered;
14. authorizations, consents or releases;
15. operative report;
16. anesthesia record to include, but not limited to:
 - a. type of anesthesia used;

- b. medication administered;
- c. person administering the anesthesia; and post-anesthesia report;

17. name of the treating physician(s), names of surgical assistants, and nursing personnel (scrub and circulator(s));

18. start and end time of the surgery/procedure;

19. a current informed consent for surgery/procedure and anesthesia that includes the following:

- a. name of the patient;
- b. patient identification number;
- c. name of the procedure or operation being performed;
- d. reasonable and foreseeable risks and benefits;
- e. name of the licensed medical practitioner(s) who will perform the procedure or operation;
- f. signature of patient or legal guardian or individual designated as having power of attorney for medical decisions on behalf of the patient;
- g. date and time the consent was obtained; and
- h. signature and professional discipline of the person witnessing the consent;

20. special procedures report(s);

21. patient education and discharge instructions;

22. a discharge summary, including:

- a. physician progress notes and discharge notes; and

23. a copy of the death certificate and autopsy findings, when appropriate.

J. The medical records shall be under the custody of the ASC and maintained in its original, electronic, microfilmed or similarly reproduced form for a minimum period of 10 years from the date a patient is discharged, pursuant to R.S. 40:2144(F)(1). The ASC shall provide a means to view or reproduce the record in whatever format it is stored.

K. Medical records may be removed from the premises for computerized scanning for the purpose of storage. Contracts entered into, for the specific purpose of scanning at a location other than the ASC, shall include provisions addressing how:

- 1. the medical record shall be secured from loss or theft or destruction by water, fire, etc.; and
- 2. confidentiality shall be maintained.

L. Medical records may be stored off-site provided:

- 1. the confidentiality and security of the medical records are maintained; and
- 2. a 12-month period has lapsed since the patient was last treated in the ASC.

M. Each clinical entry and all orders shall be signed by the physician, and shall include the date and time. Clinical entries and any observations made by nursing personnel shall be signed by the licensed nurse and shall include the date and time.

1. If electronic signatures are used, the ASC shall develop a procedure to assure the confidentiality of each electronic signature, and shall prohibit the improper or unauthorized use of any computer-generated signature.

2. Signature stamps shall not be used.

N. All pertinent observations, treatments and medications given to a patient shall be entered in the nurses' notes as part of the medical record. All other notes relative to specific instructions from the physician shall be recorded.

O. Completion of the medical record shall be the responsibility of the admitting physician within 30 days of patient discharge.

P. All hard copy entries into the medical record shall be legible and accurately written in ink. The recording person shall sign the entry to the record and include the date and time of entry. If a computerized medical records system is used, all entries shall be authenticated, dated and timed, complete, properly filed and retained, accessible and reproducible.

Q. Written orders signed by a member of the medical staff shall be required for all medications and treatments administered to patients, and shall include the date and time ordered. Verbal orders shall include read-back verification. All verbal orders shall be authenticated by the ordering physician within 48 hours to include the signature of the ordering physician, date and time.

R. The use of standing orders shall be approved by the medical staff, and the standing orders shall be individualized for each patient. Standing orders shall be approved for use by the medical staff on a yearly basis. If standing orders are utilized, the standing orders shall become part of the medical record and include the patient's name, date of surgery and shall be authenticated by the ordering physician's signature, date and time. Any changes to the pre-printed orders shall be initialed by the physician making the entry or change to the pre-printed form. The changes shall be legible, noted in ink (if hard copy), and shall include the date and time.

1. Range orders are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4571. Other Records and Reports

A. The following indexes, records and registers shall be required of the licensed ASC, including any individual or entity that enters into a use agreement:

- 1. a patient's register;
- 2. an operating/procedure room register;
- 3. a death register;
- 4. a daily census report of admissions and discharges;
- 5. records of reportable diseases as required by state and/or federal regulations;
- 6. a laboratory log denoting laboratory specimens that are sent to pathology;
 - a. the laboratory log shall include, at a minimum, the following information:
 - i. the patient's name;
 - ii. the specimen site; and
 - iii. the date the specimen was sent for pathology interpretation; and
- 7. an implant log, when appropriate.

B. Other statistical information shall be maintained to expedite data gathering for specialized studies and audits.

C. Nothing in this Chapter is intended to preclude the use of automated or centralized computer systems or any other techniques provided the regulations stated herein are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4573. Quality Assurance and Performance Improvement

A. The governing body shall ensure that there is an implemented, maintained, effective, written, data-driven and ongoing program designed to assess and improve the quality of patient care. This program shall include all contracted services and those services provided under a use agreement.

B. The governing body shall ensure that it allocates sufficient staff, time, information systems and training to implement the Quality Assurance and Performance Improvement (QAPI) Program.

C. The ASC shall ensure there is a written quality assurance plan for assessing and improving quality of care that is focused on high risk, high volume and problem-prone areas, and which specifies the intervals that the ASC shall actively collect data related to the quality indicators. Performance improvement activities shall consider incidence, prevalence and severity of problems and those that can affect health outcomes, patient safety and quality of care. The plan shall describe the system for overseeing and analyzing the effectiveness of monitoring, evaluation and sustained improvement activities. All services related to patient care, including services furnished by a contractor or under a use agreement, shall be evaluated.

D. Nosocomial infections, patient care outcomes, surgical services and other invasive procedures performed in the ASC shall be evaluated as they relate to appropriateness of diagnosis and treatment.

E. The services provided by each licensed practitioner with ASC privileges shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness and in accordance with medical staff bylaws/rules and regulations.

F. Quality assurance and performance improvement shall include monitoring of in-line gases.

G. The QAPI program shall monitor, identify and develop a plan for elimination of medication errors and adverse patient events.

H. Corrective actions to problems identified through the QAPI program with on-going monitoring for sustained corrective action shall be documented. All QAPI data shall be documented and remain within the ASC. Staff education and training related to the correction of problems shall be documented.

I. The number and scope of distinct QAPI improvement projects conducted annually shall reflect the scope and complexity of the ASC's services and operations.

J. The ASC shall document the projects that are being conducted. The documentation, at a minimum, shall include:

1. the reason(s) for implementing the project; and
2. a description of the project's results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Safety, Sanitization and Emergency Preparedness

§4575. General Provisions

A. The ASC shall have policies and procedures, approved and implemented by the medical staff and governing body, that address provisions for:

1. sanitizing, disinfecting and sterilizing supplies, equipment and utensils; and

2. the safe use of cleaning supplies and solutions that are to be used and the directions for use, including:

a. terminal cleaning of the OR/procedure rooms; and

b. cleaning of the OR/procedure rooms between surgical and nonsurgical procedures.

B. Policies and procedures shall be developed, implemented and approved by the ASC's governing body for the types and numbers of sterilizing equipment and autoclaves sufficient to meet the surgical sterilization needs of the ASC.

1. Procedures for the proper use of sterilizing equipment for the processing of various materials and supplies shall be in writing, according to manufacturer's recommendations, and readily available to personnel responsible for the sterilizing process.

2. All sterilization monitoring logs shall be maintained within the ASC for a minimum of 18 months.

C. All steam sterilizing equipment shall have live bacteriological spore monitoring performed at a frequency according to the manufacturer's instructions.

1. If tests are positive, a system shall be in place to recall supplies that have tested substandard in accordance with the ASC's policies and procedures set forth by the ASC's governing body.

D. All ethylene oxide sterilizing equipment shall have live bacteriological spore monitoring performed with each load and according to manufacturer's recommendation. There shall be ventilation of the room used for this sterilization to the outside atmosphere. There shall be a system in place to monitor trace gases of ethylene oxide with a working alert system which is tested and documented daily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4577. Infection Control

A. The ASC shall maintain an infection control program that minimizes infections and communicable diseases through prevention, investigation and reporting of infections. This program shall include all contracted services and those services provided under a use agreement.

B. The ASC shall provide a functional and sanitary environment for the provision of surgical or endoscopy services, if provided, by adopting and adhering to professionally accepted standards of practice. The ASC shall have documentation that the infection control program was considered, selected and implemented based on nationally recognized infection control guidelines.

C. The infection control program shall be under the direction of a designated and qualified professional. The ASC shall determine that the individual selected to lead the infection control program has had documented training in the principles and methods of infection control. The individual shall maintain his/her qualifications through ongoing education and training, which can be demonstrated by participation in infection control courses or in local and national meetings organized by a nationally recognized professional infection control society.

D. The ASC shall develop, with the approval of the medical director and the governing body, policies and procedures for preventing, identifying, reporting, investigating, controlling and immediately implementing corrective actions relative to infections and communicable diseases of patients and personnel. At a minimum, the policies shall address:

1. hand sanitizers and hand hygiene;
2. use of all types of gloves;
3. surgical scrub procedures;
4. linen cleaning and reuse;
5. waste management;
6. environmental cleaning;
7. reporting, investigating and monitoring of surgical infections;
8. sterilization and cleaning procedures and processes;
9. single use devices;
10. disinfecting procedures and processes;
11. breaches of infection control practices; and
12. utilization of clean and dirty utility areas.

E. The ASC shall have policies and procedures developed and implemented which require immediate reporting, according to the latest criteria established by the Centers for Disease Control, Office of Public Health and the Occupational Safety and Health Administration (OSHA), of the suspected or confirmed diagnosis of a communicable disease.

F. The ASC shall maintain an infection control log of incidents related to infections. The log is to be maintained within the ASC for a minimum of 18 months.

G. Any employee with a personal potentially contagious/ or infectious illness shall report to his/her immediate supervisor and/or director of nursing for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other patients or personnel.

1. Employees with symptoms of illness that have the potential of being potentially contagious or infectious (i.e. diarrhea, skin lesions, respiratory symptoms, infections, etc.) shall be either evaluated by a physician and/or restricted from working with patients during the infectious stage.

H. Provisions for isolation of patients with a communicable or contagious disease shall be developed and implemented according to ASC policy and procedure.

I. Provisions for transfer of patients from the ASC shall be developed and implemented according to ASC policy and procedure.

J. The ASC shall develop a system by which potential complications/infections that develop after discharge of a patient from the ASC are reported, investigated and monitored by the infection control officer.

K. Procedures for isolation techniques shall be written and implemented when applicable.

L. The ASC shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials to prevent contamination and the spread of infection within the ASC. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials and the safe handling of these materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4579. Laundry Handling and Sanitation

A. The ASC shall be responsible for ensuring the proper handling, cleaning, sanitizing and storage of linen and other washable goods whether provided by the ASC or provided by a contracted vendor. All linen used in the ASC shall be of sufficient quantity to meet the needs of the patients.

B. Laundry services shall be provided either in-house or through a contracted commercial laundry service in accordance with the ASC's policies and procedures as set forth by the governing body.

1. Contracted Laundry Service

a. If laundry service is contracted, the ASC shall assess the cleaning and sanitizing processes that are used by the commercial laundry service.

2. In-House Laundry Service

a. If laundry services are provided in-house, policies and procedures shall be developed which follow manufacturer's recommended guidelines for water temperature, the method for cleaning and sanitizing reusable laundry and the type of cleaning products utilized to prevent the transmission of infection through the ASC's multi-use of these washable goods.

b. The water temperature shall be monitored and documented on a daily use log and maintained for a minimum of 18 months.

C. Procedures shall be developed for the proper handling and distribution of linens to minimize microbial contamination from surface contact or airborne deposition.

D. Cross contamination of clean and dirty linen shall be prevented. Provisions shall be made for the separation of clean and soiled linen. All contaminated laundry shall be handled according to the ASC's written protocols in accordance with current applicable OSHA and CDC guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4581. Emergency Preparedness and Emergency 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 ASC 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 patients, if any, during the emergency.

C. The ASC shall develop and maintain an emergency preparedness communication plan that complies with both federal and state laws. Patient care shall be well-coordinated within the ASC, across health care providers and with state and local public health departments and emergency systems.

D. The ASC 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.

E. Additional Requirements:

1. Each ASC shall post exit signs and diagrams conspicuously through the facility.

2. Flash lights or battery operated lamps for emergency use shall be available for ASC personnel and kept in operational condition.

3. The ASC shall ensure that emergency equipment is:

- immediately available for use during emergency situations;

- appropriate for the ASC's patient population; and
- maintained by appropriate personnel.

4. The ASC shall have written policies and procedures that address the availability and relevant use of the following emergency equipment in the ASC's operating/procedure rooms sufficient in number to handle multiple simultaneous emergencies:

- emergency call system;
- oxygen;
- mechanical ventilatory assistance equipment, including:
 - airways;
 - manual breathing bag; and
 - ventilator;
- cardiac defibrillator;
- cardiac monitoring equipment;
- tracheostomy set;
- laryngoscope and endotracheal tubes;
- suction equipment; and
- any other emergency medical equipment and supplies specified by the medical staff and approved by the governing body for treatment of all age groups serviced in the ASC.

5. The ASC shall have an operable backup generator of sufficient size to support and maintain necessary life-sustaining medical equipment.

a. A sufficient amount of fuel shall be maintained to ensure the operation of the generator for at least four hours to maintain:

- temperatures to protect patient health and safety and for the safe and sanitary storage of provisions;
- emergency lighting; and
- fire detection, extinguishing and alarm systems.

6. The ASC is responsible for:

a. developing and implementing policies and procedures for the safe emergency transfer of patients from the ASC in the event that an emergency impacts the ASC's ability to provide services;

b. developing policies that address what types of emergency procedures, equipment and medications shall be available; and

c. providing trained staff to sustain the life of the patient prior to the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4583. Inactivation of License due to a Declared Disaster or Emergency

A. An ASC 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 ASC 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 ASC 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 ASC intends to resume operation as an ASC 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;

2. the ASC resumes operating 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 ASC 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, if applicable; and

4. the ASC continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ASC license, the department shall issue a notice of inactivation of license to the ASC.

C. Upon completion of repairs, renovations, rebuilding or replacement, an ASC 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 ASC shall submit a written license reinstatement request to HSS 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.

c. The ASC shall submit the following:

i. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal (OSFM) and any other office/entity designated by the department to review and approve the facility's architectural plans;

ii. a copy of the on-site inspection report with approval for occupancy by OSFM, if applicable; and

iii. a copy of the on-site health inspection report with approval of occupancy from OPH;

2. The ASC resumes operating in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ASC license, the department shall conduct a licensing survey. If the ASC meets the requirements for licensure and the requirements under this Section, the department may issue a notice of reinstatement of the ASC license.

E. No change of ownership of the ASC shall occur until such ASC has completed repairs, renovations, rebuilding or

replacement construction and has resumed operations as an ASC.

F. The provisions of this Section shall not apply to an ASC 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 ASC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4585. Inactivation of License due to a Non-Declared Emergency or Disaster

A. An ASC 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 ASC 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 ASC 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 facility intends to resume operation as an ASC in the same service area;

c. the ASC attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the ASC'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 ASC 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 ASC continues to submit required documentation and information to the department, including but not limited to, cost reports.

B. Upon receiving a completed written request to temporarily inactivate the ASC license, the department shall issue a notice of inactivation of license to the ASC.

C. Upon the ASC's receipt of the department's approval of request to inactivate the license, the ASC shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the ASC to OSFM and OPH as required.

D. The ASC shall resume operating as an ASC in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

Exception: If the ASC requires an extension of this timeframe due to circumstances beyond the ASC's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the ASC's active efforts to complete construction or repairs and the reasons for request for extension of the ASC'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 ASC, an ASC 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 ASC 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 ASC license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the ASC has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership of the ASC shall occur until such ASC has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ASC.

H. The provisions of this Section shall not apply to an ASC which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ASC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Physical Environment
§4587. General Requirements

A. The standards in this Subchapter shall apply to any ASC constructed after the effective date of this rule, or an ASC that makes alterations, additions or substantial rehabilitation to an existing ASC or adaptation of an existing building to create an ASC. Cosmetic changes to the ASC such as painting, flooring replacement or minor repairs shall not be considered an alteration or substantial rehabilitation.

Exception: For those applicants for ASC licensure who received plan review approval from the OSFM before the effective date of the promulgation of this Rule, or who have begun construction or renovation of an existing building before the effective date of the promulgation of this Rule, the physical environment requirements of §4587 shall not apply.

B. An applicant for an ASC license shall furnish one complete set of architectural plans and specifications to the entity/office designated by the department to review and approve the facility's architectural plans and the Office of State Fire Marshal.

1. The office designated by the department to review and approve architectural drawings and specifications and the Office of State Fire Marshal shall review and approve the *Life Safety Code* plans before construction is allowed to begin.

2. When the plans and specifications have been reviewed and all inspections and investigations have been made, the applicant will be notified whether the plans for the proposed ASC have been approved.

C. No alterations, other than minor alternations, shall be made to existing facilities without the prior written approval

of, and in accordance with, architectural plans and specifications approved in advance by the department, or its designee, and the Office of State Fire Marshal.

D. All new construction, additions and renovations, other than minor alterations, shall be in accordance with the specific requirements of the Office of State Fire Marshal and the department, or its designee, who shall be responsible for the review and approval of architectural plans. Plans and specifications submitted to these offices shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect.

E. All designs and construction shall be in accordance with the provisions of *LAC Title 51 Public Health Sanitary Code*.

F. Facility Within A Facility

1. If more than one health care provider occupies the same building, premises or physical location, all treatment facilities and administrative offices for each health care facility shall be clearly separated from the other by a clearly defined and recognizable boundary.

2. There shall be clearly identifiable and distinguishable signs posted inside the building as well as signs posted on the outside of the building for public identity of the ASC. Compliance with the provisions of R.S. 40:2007 shall be required.

3. An ASC that is located within a building that is also occupied by one or more other businesses and/or other healthcare facilities shall have all licensed spaces and rooms of the ASC contiguous to each other and defined by cognizable boundaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4589. General Appearance and Space Requirements

A. The ASC shall be constructed, arranged and maintained to ensure the safety and well-being of the patients and the general public it serves.

B. The ASC shall have a minimum of two operating and/or procedure rooms and a minimum of one post-anesthesia recovery room to meet the needs of the patients being served. In addition to the operating and/or procedure rooms and post-anesthesia recovery rooms, the ASC may also have one or more treatment rooms.

C. The location of the operating and procedure rooms within the ASC, and the access to it, shall conform to professionally-accepted standards of practice, particularly for infection control, with respect to the movement of people, equipment and supplies in and out of the operating or procedure rooms.

1. The operating and procedure rooms' temperature and humidity shall be monitored and maintained in accordance with accepted standards of practice and documented on a daily use log that is maintained for a minimum of 18 months.

D. The ASC shall have a separate waiting area sufficient in size to provide adequate seating space for family members and/or guests of the patient.

E. The ASC shall meet the following requirements including, but not limited to:

1. A sign shall be posted on the exterior of the ASC that can be viewed by the public which shall contain, at a minimum, the "doing business as" name that is on the ASC's license issued by the department.

2. Signs or notices shall be prominently posted in the ASC stipulating that smoking is prohibited in all areas of the ASC.

3. Policies and procedures shall be developed for maintaining a clean and sanitary environment at all times.

4. There shall be sufficient storage space for all supplies and equipment. Storage space shall be located away from foot traffic, provide for the safe separation of items, and prevent overhead and floor contamination.

5. All patient care equipment shall be clean and in working order. Appropriate inspections of patient care equipment shall be maintained according to manufacturer's recommendations and ASC policies and procedures.

6. Designated staff areas shall be provided for surgical and other personnel to include, but not be limited to:

a. dressing rooms;

b. toilet and lavatory facilities including soap and towels; and

c. closets or lockers to secure the personal belongings of the staff.

7. Adequate toilet facilities shall be provided for patients and/or family which maintain proper ventilation, properly functioning toilet(s) in each toilet facility, hot and cold water in all lavatories, soap and towels.

8. A private area shall be provided for patients to change from street clothing into hospital gowns and to prepare for surgery.

9. Provisions shall be made for securing patients' personal effects.

10. All doors to the outside shall open outward and be provided with self-closing devices.

11. All stairways, ramps and elevators shall be provided with non-skid floor surfaces and all stairways shall have handrails on both sides.

12. An effective and on-going pest control program shall be maintained to ensure the ASC is free of insects and rodents.

13. Proper ventilation, lighting and temperature controls shall be maintained in all areas of the ASC.

14. Waste products shall be stored in covered containers of a capacity and type approved by the Office of Public Health, and disposal of such wastes shall be in a manner approved by the Office of Public Health.

15. Each ASC shall provide for a covered entrance, well-marked, and illuminated for drop off and/or pick up of patients before and after surgery. The covered entrance shall extend to provide full overhead coverage of the entire transporting automobile and/or ambulance to permit protected transfer of patients. Vehicles in the loading area should not block or restrict movement of other vehicles in the drive or parking areas immediately adjacent to the ASC.

16. The ASC shall provide a separate room for meetings to ensure privacy between medical staff and family members.

17. Patient and family parking spaces shall be provided adjacent to the ASC that are in proportion to the number of pre- and post-operative stations.

18. Adequate staff and physician parking spaces shall be available.

F. Surgical Area

1. The surgical area shall be comprised of a minimum of two operating rooms. In new construction and renovation, each operating room shall have a minimum clear floor area of 250 square feet with a minimum clear area of 15 feet between fixed cabinets and built-in shelves.

2. The surgical/ procedure room area shall be located in a segregated and restricted section of the ASC and be removed from general lines of traffic of both visitors and other ASC personnel, and from other departments so as to prevent traffic through them.

3. The surgical/procedure room area shall be defined by the following unrestricted, semi-restricted and restricted areas.

a. Unrestricted Area. This area shall include a central control point established to monitor the entrance of patients, personnel and materials into the restricted areas. Street clothes are permitted in this area, and traffic is not limited.

b. Semi-Restricted Area. This area shall include the peripheral support areas of the surgical center which includes storage areas for clean and sterile supplies, work areas for storage and processing of instruments and corridors leading to the restricted areas of the surgical center. Staff attire appropriate for the semi-restricted area shall be defined in policy. Traffic in this area is limited to authorized personnel and patients.

c. Restricted area. This area shall include operating and procedure rooms, the clean core and scrub sink areas. Surgical attire, including hair coverings and masks, shall be required in accordance with professionally accepted standards.

4. The operating/procedure room(s) shall be appropriately equipped to safely provide for the needs of the patient and in accordance with accepted clinical practices. The operating/procedure room(s) shall consist of a clear and unobstructed floor area to accommodate the equipment and personnel required, allowing for aseptic technique. Only one surgical case or procedure can be performed in an operating/procedure room at a time.

5. There shall be scrub-up facilities in the surgical center which provide hot and cold running water and that are equipped with knee, foot or elbow faucet controls.

6. Space for supply and storage of medical gases, including space for reserve cylinders shall be provided. Provisions shall be made for the secure storage of all medical gas cylinders to prevent tipping and falling. Policies and procedures shall be developed for testing of medical gases.

7. Equipment storage room(s) shall be provided for equipment and supplies used in the operating/procedure room(s). Equipment storage room(s) shall be located within the semi-restricted area.

a. Stretchers shall be stored in an area that is convenient for use, out of the direct line of traffic and shall not create an obstacle for egress.

8. There shall be emergency resuscitation equipment and supplies including a defibrillator and tracheostomy set available to both surgery and post-anesthesia recovery areas.

a. The numbers of crash carts (emergency medical supply carts) in the ASC should be based on current professionally accepted standards of practice adopted from a national association or organization and defined in policies and procedures, and shall be immediately available to both surgery and post-anesthesia recovery areas.

G. Post-Anesthesia Recovery Area

1. Rooms for post-anesthesia recovery in an ASC shall be provided in accordance with the functional program and sufficient in size and equipment to efficiently and safely provide for the needs of the staff and patients. There shall be at least one separate post-anesthesia recovery area within the ASC.

2. Provisions to ensure patient privacy such as cubicle curtains shall be made.

3. The post-anesthesia recovery area shall be accessible directly from the semi-restricted area and adjacent to the operating/procedure rooms.

4. A nurse's station(s) shall be located within the post-anesthesia recovery area and shall be centrally located with complete visualization of all patients in the post-anesthesia recovery area.

a. Each nurse's station or nursing care area shall be equipped to perform nursing functions to include:

i. desk space;

ii. chart racks and/or electronic medical record equipment;

iii. telephone(s) or other communication equipment; and

iv. lockable cupboard, closet or room designed for the storage and preparation of patient medications;

b. A double locked storage shall be provided for controlled substances. Separate areas shall be provided for the separation of internal and external drugs and medications. This area shall be well lighted with temperature controls and accessible only to authorized personnel. A separate refrigerator for pharmaceuticals shall be provided and monitored regularly for documented compliance with temperature controls. A sink with running hot and cold water and sufficient work area shall also be provided in the area of drug preparation.

5. Hand washing station(s) shall be available in the post-anesthesia recovery area.

6. The post-anesthesia recovery area shall have a minimum of 80 square feet provided for each patient in a lounge chair/stretcher.

H. There shall be sufficient space between and around lounge chairs/stretchers and between fixed surfaces and lounge chairs/stretchers to allow for nursing and physician access to each patient.

I. General and individual office(s) for business transactions, records and administrative and professional staff shall be provided within the ASC. Space for private patient interviews relating to admission shall be provided within the ASC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

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 positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe operation of facilities that provide ambulatory surgical services.

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 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, March 30, 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: Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that \$14,148(SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule repeals and replaces the licensing standards governing ambulatory surgical centers in order to: 1) clarify the existing provisions; 2) provide for inactivation of the provider license in the event of specific qualifying events or circumstances; 3) establish provisions which allow ambulatory surgical centers to enter into use agreements; and 4) ensure consistency with other licensing rules, regulations and processes. It is anticipated that the implementation of this proposed rule will have no economic costs, but may benefit ambulatory surgical centers in FY 16-17, FY 17-18 and FY 18-19 by the relaxing of licensing standards and requirements when the ASC is non-operational during certain qualifying events or circumstances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1702#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
Payment Methodology
(LAC 50:V.3103)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated a Notice of Intent governing disproportionate share hospital (DSH) payments which continued the provisions of the October 20, 2016 Emergency Rule that established payments to Louisiana low-income academic hospitals and revised the DSH payment methodology (*Louisiana Register*, Volume 42, Number 12). The department now proposes to amend the provisions governing the reimbursement methodology for DSH payments to Louisiana low-income academic hospitals in order to revise the reimbursement schedule from annual to quarterly payments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments Chapter 31. Louisiana Low-Income Academic Hospitals

§3103. Payment Methodology

A. - A.1. ...

2. The department shall review cost data, charge data, lengths of stay and Medicaid claims data per the Medicaid management and information systems for reasonableness before payments are made.

B. Effective for dates of service on or after July 1, 2017, for payment calculations, the most recent Medicaid filed cost report, along with actual Medicaid and uninsured patient charge data from the most recently filed Medicaid cost report with Medicaid and uninsured charge data from the same time period, is utilized to calculate hospital specific uncompensated care costs. Costs and patient utilization from a more current time period may be considered in the calculation of the DSH payment if significant changes in costs, services, or utilization can be documented. This change in the time-period utilized must receive prior approval by the department.

1. - 2. Repealed.

C. Effective for dates of service on or after July 1, 2017, the first payment of each fiscal year will be made by October 30 and will be 25 percent of the annual calculated uncompensated care costs. The remainder of the payment will be made by January 30, April 30 and June 30 of each year.

1. Reconciliation of these payments to actual hospital specific uncompensated care costs will be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

2. Additional payments or recoupments, as needed, shall be made after the finalization of the Centers for Medicare and Medicaid Services (CMS) mandated DSH audit for the state fiscal year.

D. No payment under this Section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.

D.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana

Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, March 30, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Disproportionate Share Hospital Payments—Louisiana Low-Income Academic Hospitals—Payment 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 16-17 since there are no changes in the total expenditures for these services, only the schedule for when the payments will be made. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that \$270 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the reimbursement methodology for disproportionate share hospital (DSH) payments to Louisiana low-income academic hospitals in order to revise the reimbursement schedule from semi-annual to quarterly payments. It is anticipated that implementation of this proposed rule will have no costs to low-income academic hospitals, but may impact hospital operations in FY 16-17, FY 17-18 and FY 18-19 by spreading the frequency of payments through the fiscal year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1702#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Disproportionate Share Hospital Payments
Qualifying Criteria (LAC 50:V.2503)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.2503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments in order to revise the participation requirements for the Low-Income and Needy Care Collaboration (*Louisiana Register*, Volume 39, Number 12). The department now proposes to amend the provisions governing DSH payments in order to make technical revisions to ensure that the provisions governing the qualifying criteria are appropriately formatted in a clear and concise manner in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Louisiana Low-Income Academic Hospitals

§2503. Disproportionate Share Hospital Qualifications

A. - A.4.b.ii. ...

5. effective November 3, 1997, be a *small rural hospital* as defined in §2705.A.2.a-m; or

6. ...

7. effective January 20, 2010, be a hospital participating in the low-income and needy care collaboration as defined in §2713.A;

8. effective January 1, 2013, be a public-private partnership hospital as defined in §2901.A;

9. effective May 24, 2014, be a Louisiana low-income academic hospital as defined in §3101.A-B;

10. effective June 29, 2016, be a major medical center located in the central and northern areas of the state as defined in §2715.A; and

11. effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least 1 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing, LR 39:3294 (December 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule 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, March 30, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disproportionate Share
Hospital Payments—Qualifying Criteria**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 16-17

for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that \$216 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing disproportionate share hospital (DSH) payments in order to make technical revisions to ensure that the provisions governing the qualifying criteria are appropriately formatted in a clear and concise manner in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will have no costs or economic benefits to hospitals in FY 16-17, FY 17-18 and FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1702#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Family Planning Waiver
Program Termination
(LAC 50:XXII.Chapters 21-27)**

The Department of Health, Bureau of Health Services Financing proposes to repeal LAC 50:XXII.Chapters 21-27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented a family planning research and demonstration project under the authority of a §1115 waiver (*Louisiana Register*, Volume 32, Number 8). The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish a new optional eligibility group under the Medicaid State Plan to provide coverage for family planning services and supplies (*Louisiana Register*, Volume 40, Number 6). Eligible participants in the Family Planning Waiver were transitioned into the new family planning eligibility group under the Medicaid State Plan. The §1115 waiver authority for the Family Planning Waiver expired on December 31, 2014. Hence, the Department of Health, Bureau of Health Services Financing now proposes to repeal the provisions governing the Family Planning Waiver due to the expiration of the §1115 waiver authority.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 3. Family Planning Waiver

Chapter 21. General Provisions

§2101. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

§2103. Enrollment

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 32:1461 (August 2006), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 23. Eligibility

§2301. Recipient Qualifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:3027 (October 2011), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 25. Services

§2501. Covered Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

§2503. Service Limits

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 32:1461 (August 2006), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

§2505. Service Delivery

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 27. Reimbursement

§2701. Reimbursement Methodology

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2280 (October 2010), LR 37:2156 (July 2011), LR 39:506 (March 2013), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, March 30, 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: Family Planning Waiver Program Termination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated net state general fund programmatic cost of approximately \$3,908,963 for FY 16-17, \$3,508,881 for FY 17-18 and \$3,242,808 for FY 18-19. When the Section 1115 family planning waiver terminated, enrollees were shifted to family planning services covered under the Medicaid State Plan which resulted in a cost shift rather than a savings. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$6,448,439 for FY 16-17, \$6,062,536 for FY 17-18 and \$5,602,823 for FY 18-19. It is anticipated that \$324 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule repeals the provisions governing the Family Planning Waiver due to the expiration of the §1115 waiver authority on December 31, 2014 which had authorized the waiver program. Enrollees in the waiver program were shifted to family planning services covered under the Medicaid State Plan. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for family planning services by approximately \$10,356,754 for FY 16-17, \$9,571,417 for FY 17-18 and \$8,845,631 for FY 18-19 due to the shift in expenditures from the Family Planning Waiver program to the family planning services covered under the Medicaid State Plan.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on competition and employment.

Jen Steele
Medicaid Director
1702#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Increase
(LAC 50:V.Chapter 9)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient

hospital services rendered by children's specialty hospitals to revise the reimbursement methodology and establish outlier payment provisions (*Louisiana Register*, Volume 42, Number 2).

In order to comply with the requirements of House Concurrent Resolution 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 42, Number 12). This Rule is being promulgated to continue the provisions of the January 1, 2017 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - J. ...

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in LDH administrative region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

J.2. - L. ...

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either LDH administrative region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

L.2. - N.3.g. ...

4. Each participant must certify that it complies with the requirements of §953.N.3 by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health, Bureau of Health Services Financing.

N.5. - T. ...

U. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to acute care hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

1. Small rural hospitals as defined in R.S. 40:1300 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014),

repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§955. Long-Term Hospitals

A. - D. ...

1. Qualifying Criteria. In order to qualify for the supplemental payment, the long-term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following LDH administrative regions:

D.1.a. - J. ...

K. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to long-term hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§959. Inpatient Psychiatric Hospital Services

A. - E. ...

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either LDH administrative region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

E.2. - K.2.b. ...

L. Effective for dates of service on or after February 10, 2012, a Medicaid-enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients, and which also assumes the operation and management of formerly state-owned and operated psychiatric hospitals/visits, shall be paid a per diem rate of \$581.11 per day.

M. Effective for dates of service on or after January 1, 2017, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals, and distinct part psychiatric units within non-rural, non-state acute care hospitals, shall be increased by 2 percent of the per diem rate on file as of December 31, 2016.

1. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July

2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§967. Children's Specialty Hospitals

A. - K. ...

L. Effective for dates of service on or after January 1, 2017, the inpatient per diem rates paid to children's specialty hospitals for acute, neonatal intensive care units, pediatric intensive care units and burn units' services shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

M. Effective for dates of service on or after January 1, 2017, the prospective per diem rate paid to distinct part psychiatric units within children's specialty hospitals shall be increased by 2 percent of the per diem rate on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2562 (November 2010), amended LR 37:2162 (July 2011), LR 38:2773 (November 2012), LR 39:3097 (November 2013), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended LR 40:1941 (October 2014), LR 42:275 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service and may enhance the provider's ability to provide the same level of service since this proposed Rule increases the payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to

MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, March 30, 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: Inpatient Hospital Services Non-Rural, Non-State Hospitals Reimbursement Rate Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic cost of \$702,574 for FY 16-17, \$2,124,138 for FY 17-18 and \$2,124,138 FY 18-19. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and FY 18-19.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by \$1,158,726 for FY 16-17, \$3,670,020 for FY 17-18 and \$3,670,020 for FY 18-19. It is anticipated that \$486 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and FY 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the January 1, 2017 Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to increase the reimbursement rates paid to non-rural, non-state hospitals in compliance with the requirements of House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for inpatient hospital services by approximately \$1,860,328 for FY 16-17, \$5,794,158 for FY 17-18 and \$5,794,158 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a positive effect on employment as it will increase payments made to non-rural,

non-state hospitals. The increase in payments may enhance the financial standing of these providers and could possibly cause an increase in employment opportunities.

Jen Steele
Medicaid Director
1702#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals and
Children's Specialty Hospitals
Reimbursement Rate Increase
(LAC 50:V.5313, 5317, 5513,
5517, 5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.5313, §5317 and §§5513, 5517, 5713, 5719, 6115 and 6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services in order to revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals and to correct the Code of Federal Regulations citation (*Louisiana Register*, Volume 40, Number 9).

In order to comply with the requirements of House Concurrent Resolution 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services in order to increase the reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals (*Louisiana Register*, Volume 42, Number 12). This proposed Rule is being promulgated to continue the provisions of the January 1, 2017 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5317. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement paid to children specialty hospitals for outpatient surgery shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5517. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5719. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services, other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be increased by 7.03 percent of the rates in effect as of December 31, 2016.

1. Final reimbursement shall be at 71.13 percent of allowable cost through the cost settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§6119. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services, other than rehabilitation services and outpatient hospital facility fees, shall be increased by 7.03 percent of the rates in effect as of December 31, 2016.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service and may enhance the provider's ability to provide the same level of service since this proposed Rule increases the payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, March 30, 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:

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic cost of \$295,052 for FY 16-17, \$708,174 for FY 17-18 and \$708,174 FY 18-19. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 16-17 for the state's

administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and FY 18-19.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by \$486,434 for FY 16-17, \$1,223,561 for FY 17-18 and \$1,223,561 for FY 18-19. It is anticipated that \$486 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and FY 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the January 1, 2017 Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to increase the reimbursement rates paid to non-rural, non-state hospitals in compliance with the requirements of House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for outpatient hospital services by approximately \$780,514 for FY 16-17, \$1,931,735 for FY 17-18 and \$1,931,735 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, we anticipate that the implementation may have a positive effect on employment as it will increase payments made to non-rural, non-state hospitals. The increase in payments may enhance the financial standing of these providers and could possibly cause an increase in employment opportunities.

Jen Steele
Medicaid Director
1702#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Pharmacy Benefits Management Program
State Supplemental Rebate Agreement Program
(LAC 50:XXIX.Chapter 11)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XXIX.Chapter 11 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 Medicaid coverage of prescription drugs through its Pharmacy Benefits Management Program. The department amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate

Agreement Program which is a multi-state Medicaid state supplemental drug rebate pooling initiative (*Louisiana Register*, Volume 39, Number 10). This program allows states to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates than could be achieved independently. It is anticipated that this program will lower the net cost of brand drugs and the overall dollars spent on pharmacy benefits.

The department promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in the TOPS State Supplemental Rebate Agreement Program (*Louisiana Register*, Volume 40, Number 3). This proposed Rule is being promulgated to continue the provisions of the February 22, 2014 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 11. State Supplemental Rebate Agreement Program

§1101. General Provisions

A. Effective October 1, 2013, the Department of Health, Bureau of Health Services Financing hereby establishes provisions for participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement (SRA) Program. TOPS is a multi-state Medicaid state supplemental drug rebate pooling initiative approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and administered by Provider Synergies, L.L.C/Magellan Medicaid Administration. The purpose of this program is to allow states the opportunity to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates and discounts from prescription drug companies than could be achieved independently.

B. Pursuant to R.S. 46:153.3, the department shall enter into a contractual agreement with Provider Synergies to participate in TOPS. Provider Synergies/Magellan Medicaid Administration will act on the department's behalf to provide the necessary administration services relative to this agreement for the provision of state supplemental drug rebate contracting and preferred drug list administration 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, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or

family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, March 30, 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: Pharmacy Benefits

Management Program

State Supplemental Rebate Agreement Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17 since these provisions only give notice that the department shall enter into an agreement to participate in the State Supplemental Rebate Agreement Program, pursuant to federal public notice requirements. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that \$216 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule continues the provisions of the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in The Optimal PDL Solution

(TOPS) State Supplemental Rebate Agreement Program. It is anticipated that the implementation of this proposed rule will have no economic cost or benefits to pharmacy providers in FY 16-17, FY 17-18 and FY 18-19 since the Department currently participates in the Supplemental Rebate Program, and the rule is being promulgated only to codify these provisions into the Louisiana Administrative Code and meet federal public notice requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1702#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Sanitary Code—Sewerage Outfall Paths
(LAC 51:XIII.308)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (DHH-OPH), intends to amend and promulgate the below listed provisions of the Sanitary Code (LAC Title 51). Essentially, these proposed provisions address the need for the owner of a sewerage system to provide evidence to the state health officer of appropriate servitudes or permissions for any portion of the sewerage system effluent outfall path lying between the boundaries of the system owner's property and the first suitable publicly maintained ditch, canal, or channel forming part of the outfall path, or the ultimate receiving navigable stream or body of water, whichever is encountered first.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XIII. SEWAGE DISPOSAL

Chapter 1. General

[formerly Chapter 13 Subpart A]

§101. Definitions

[formerly Paragraph 13:001]

A. As used in this Part, the terms defined in this Chapter supplement any definitions which may be set forth in law and shall have the following meanings and/or applications, unless the context or use thereof clearly indicates otherwise, or more explicit definitions and/or applications are referenced. Terms not defined or referenced herein shall have the meanings as defined in the other Parts of the sanitary code of the state of Louisiana. In any instance where a term defined herein is also defined in one or more other Parts of this Code, the definition contained in this Part shall be given preference as it pertains to sewage disposal.

* * *

Outfall Path—the path or course by which effluent leaving the final treatment unit of a community sewerage system or individual sewerage system reaches its ultimate receiving navigable stream or body of water.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular revisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(6) and R.S. 40:5.A.(2)(3)(9)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1343 (June 2002), amended by the Louisiana Department of Health, Office of Public Health, LR 43:

Chapter 3. General Requirements for Sewage Disposal

§308. Outfall Paths

A. In reviewing plans and specifications for a proposed community sewerage system or individual sewerage system, or modifications thereto, the state health officer shall require the system owner to provide evidence of appropriate servitudes or permissions for any portion of the outfall path lying between the boundaries of the system owner's property and the first suitable publicly maintained ditch, canal, or channel forming part of the outfall path, or the ultimate receiving navigable stream or body of water, whichever is encountered first. A publicly maintained ditch, canal, or channel shall be deemed suitable for use as an outfall path unless the public or governmental body maintaining same has explicitly notified the state health officer to the contrary in writing. Notwithstanding any other provision of this code, the state health officer shall not be obligated to review or analyze the suitability or ownership of any portion of an outfall path lying downstream of its confluence with the first suitable publicly maintained ditch, canal, or channel forming a part thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(6) and R.S. 40:5.A.(2)(3)(9)(20).

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Office of Public Health, 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, amendment or repeal. All Family 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 the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No, this proposed Rule should not affect the stability of the family.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No, this proposed Rule has no effect on parents' living children.

3. Will the proposed Rule affect the functioning of the family? No, the proposed Rule will not affect the functioning of the family.

4. Will the proposed Rule affect family earnings and family budget? No, the proposed Rule will not affect family earnings and family budget.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No, the proposed Rule will not affect the behavior and personal responsibility of children.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? If applicable, the family and local government will be able to perform the function as contained in the proposed Rule.

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 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, the proposed Rule will not affect the household income, assets, or financial security.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No, the proposed Rule will not affect early childhood development or preschool through postsecondary education development.

3. Will the proposed Rule affect employment and workforce development? No, the proposed Rule will not affect employment or workforce development.

4. Will the proposed Rule affect taxes and tax credits? No, the proposed Rule will not affect taxes or tax credits.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No, the proposed Rule will not affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with the Regulatory Flexibility Act (R.S. 49:965.2-965.8), the impact of the proposed Rule on small businesses as defined in the RFA 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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;

2. total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than 4:30 p.m. on March 30, 2017, and should be addressed to David L. McCay, Staff Attorney, Louisiana Department of Health, Bureau of Legal Services, P.O. Box 3836, Baton Rouge, LA 70821-3836. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, Physical Address: 628 N. 4th Street,

Jimmy Guidry, MD
 State Health Officer
 and
 Rebekah E. Gee MD, MPH
 Secretary

Title 55

PUBLIC SAFETY

Part V. Fire Protection

Chapter 1. Preliminary Provisions

§101. Request for Rule Change

A. Anyone petitioning the assistant secretary of the Department of Public Safety, Office of the State Fire Marshal, commonly known as the Louisiana State Fire Marshal, for the adoption of, or change of, any rule shall submit in writing to the fire marshal at 8181 Independence Boulevard, Baton Rouge, LA 70806, an application containing the following basic information organized and captioned:

1. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 40:1578.6(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 6:71 (February 1980), LR 23:1688 (December 1997), LR 43:

§103. General Provisions

A. It shall be the policy of the state fire marshal that in all instances or specifications provided in the statutes or in the codes referenced by the statutes, or by any specific references in administrative rulings by the state fire marshal, that the *Standard Building Code* published by the Southern Building Code Congress International, and the *International Building Code* published by the International Code Council, and the *National Fire Codes* and standards published by the National Fire Protection Association, the publications referenced by the *NFPA 1 Fire Code* and the *NFPA 101 Life Safety Code*, and the publications specifically identified in the following list, shall be used as the materials for determinations by the state fire marshal.

NFPA 1	2015 Edition	Fire Code
NFPA 18	2011 Edition	Standard on Wetting Agents
NFPA 32	2011 Edition	Standard for Dry Cleaning Plants
NFPA 37	2015 Edition	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines
NFPA 51	2013 Edition	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes
NFPA 53	2016 Edition	Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres
NFPA 99B	2015 Edition	Standard for Hypobaric Facilities
NFPA 101	2015 Edition	Life Safety Code
NFPA 495	2013 Edition	Explosive Materials Code
NFPA 664	2012 Edition	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities
NFPA 820	2016 Edition	Standard for Fire Protection in Wastewater Treatment and Collection Facilities
NFPA 901	2016 Edition	Standard Classifications for Incident Reporting and Fire Protection Data
NFPA 1123	2014 Edition	Code for Fireworks Display
NFPA 1124	2017 Edition	Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles
NFPA 1221	2013 Edition	Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: Sanitary Code—Sewerage Outfall Paths**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Title 51 Public Health Sanitary Code, Part XIII Sewage Disposal, Chapters 1 and 3. The amendments allow the Louisiana Department of Health (LDH) to address the need for the owner of sewerage systems to provide evidence to the state health officer of appropriate servitudes or permissions for any portion of the effluent outfall path. In Chapter 1, Section 101, the proposed rule includes a definition for outfall paths. In Chapter 3, the proposed rule adds Section 308 that clarifies the outfall path must be between the boundaries of the system owner’s property and whichever is encountered first: (1) the first suitable publicly maintained ditch, canal, or channel forming part of the outfall path; or (2) the ultimate receiving navigable stream or body of water.

It is not anticipated that the proposed action will result in significant implementation cost to local governmental units. The proposed rule changes will result in an estimated cost of \$631 to publish the notice of intent and final rule in the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is not anticipated to have an 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)

Owners of sewerage systems may benefit from the clarifying language in the proposed rule which make it easier to understand the requirements under which the LDH will review and grant consent for plans with outfall paths.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

Jimmy Guidry, MD
 State Health Officer
 1702#040

Evan Brasseaux
 Staff Director
 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
 Office of the State Fire Marshal**

Code Enforcement and Building Safety
 Fire Protection
 (LAC 55:V.101, 103, Chapters 3 and 11, and 1501)

In accordance with the provisions of R.S. 40:1578.6(A), relative to the authority of the Office of State Fire Marshal to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the establishment of minimum standards.

NFPA 1402	2012 Edition	Guide to Building Fire Service Training Centers
NFPA 1403	2012 Edition	Standard on Live Fire Training Evolutions
NFPA 1961	2013 Edition	Standard on Fire Hose
NFPA 1962	2013 Edition	Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose

B. All inspections and other evaluations of buildings constructed or remodeled pursuant to plans submitted to the Office of State Fire Marshal for review shall be made utilizing new construction requirements set forth in the *Life Safety Code* published by the National Fire Protection Association, the *NFPA 1 Fire Code* published by the National Fire Protection Association, the special provisions for high-rise building section of the *Standard Building Code* published by the Southern Building Code Congress International, the fire protection and life safety provisions of the *International Building Code* published by the International Code Council, and the *FGI Guidelines* published by the Facilities Guidelines Institute for facilities evaluated on behalf of the Department of Health as follows.

Building Constructed or Remodeled	Life Safety Code Edition	NFPA 1 Fire Code Edition	Section/ Building Code Edition	Sections/ International Building Code Edition	FGI Guidelines
prior to 1/1/1975	1967		-	-	
1/1/1975 to 12/31/1979	1973		518 / 1974 Chapter 4 revisions to 1973	-	
1/1/1980 to 8/31/1981	1976		518 / 1974 Chapter 4 revisions to 1973	-	
9/1/1981 to 8/31/1986	1981		506 / 1979	-	
9/1/1986 to 2/18/1989	1985		506 / 1985	-	
2/19/1989 to 5/31/1992	1988		506 / 1985	-	
6/1/1992 to 1/4/1995	1991		506 / 1988	-	
1/5/1995 to 5/31/1998	1994		506 / 1991	-	
6/1/1998 to 6/30/2001	1997		412 / 1994	-	
7/1/2001 to 12/31/2001	2000		412 / 1994	-	
1/1/2002 to 6/30/2004	2000		412 / 1997	-	
7/1/2004 to 9/30/2007	2003		-	-	
10/1/2007 to 6/30/2010	2006		-	-	
7/1/2010 to 12/31/2013	2009		-	-	
1/1/2014 to 6/30/2017	2012		-	9 and 10/2012	
after 7/1/2017	2015	2015		9 and 10/2015	2014

C. All references to performance based criteria in the *Life Safety Code* shall only be considered by the Office of State Fire Marshal after an appeal of a decision has been timely made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F), R.S. 40:1563(L), R.S. 40:1578.6(A), and R.S. 40:1578.7(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:145 (February 1975), amended LR 5:468 (December 1979), LR 6:71 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 15:96 (February 1989), LR 17:1114 (November 1991), LR 23:1688 (December 1997), LR 27:857 (June 2001), LR 27:2257 (December 2001), repromulgated LR 29:183 (February 2003), amended LR 30:1303 (June 2004), LR 33:671 (April 2007), LR 36:1564 (July 2010), LR 39:1478 (June 2013), LR 43:

Chapter 3. Buildings

§301. Building Permits

A. ...

B. Accordingly, with the application for a building permit from any governmental subdivision of this state, proof of approval by the Office of the State Fire Marshal of the plans and specifications for which the building permit is being requested shall be provided with the permit application. Such proof may be provided electronically. This ruling shall not apply to one- and two-family dwellings.

C. Plans and specifications submitted in violation of R.S. 37:155(4) will be rejected by the Office of the State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 40:1578.6(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), repromulgated LR 6:72 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 16:320 (April 1990), LR 23:1691 (December 1997), LR 43:

§303. Plans and Specifications for New Buildings

A. As of July 1, 2017, the plans and specifications for every structure built or remodeled in the state of Louisiana shall be submitted for review and must be drawn in accordance with the applicable requirements of the following publications:

1. the 2015 edition of the *NFPA 101 Life Safety Code* (excluding chapter 5, which may be used as a basis for equivalency determinations);
2. the publications referenced in chapter 2 of the *NFPA 101 Life Safety Code*;
3. the applicable provisions of the 2015 edition of the *NFPA 1 Fire Code*;
4. the fire protection and life safety provisions of the most recently adopted *International Building Code* (IBC) by the Louisiana State Uniform Construction Code Council;
5. the most recently adopted editions of the Louisiana State Uniform Construction Code (LSUCC) for *Industrialized Buildings* and for building code reviews performed on behalf of parishes and municipalities;
6. the 2016 editions of *NFPA 13 for Sprinkler Systems*, *NFPA 13D for Domestic Sprinkler Systems*, and *NFPA 13R for Residential Sprinkler Systems*;
7. and the 2016 edition of *NFPA 20 for Stationary Fire Pumps*.

B. In addition to the documents outlined above, plans and specifications for specific structure uses shall be drawn in accordance with the requirements of the following publications:

1. *NFPA 30A: Code for Motor Fuel Dispensing Facilities and Repair Garages*, 2015 Edition;
2. *NFPA 32: Standard for Drycleaning Facilities*, 2011 Edition;
3. *NFPA 33: Standard for Spray Application Using Flammable or Combustible Materials*, 2011 Edition;
4. *NFPA 37: Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines*, 2015 Edition;
5. *NFPA 51: Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes*, 2013 Edition;
6. *NFPA 59A: Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)*, 2013 Edition;
7. *NFPA 140: Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations*, 2013 Edition;
8. *NFPA 400: Hazardous Materials Code*, 2016 Edition;
9. *NFPA 407: Standard for Aircraft Fuel Servicing*, 2012 Edition;
10. *NFPA 495: Explosive Materials Code*, 2013 Edition;
11. *NFPA 664: Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities*, 2012 Edition;
12. *NFPA 1221: Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems*, 2013 Edition.

C. As of July 1, 2017, the plans and specifications for facilities licensed, certified, or seeking licensure or certification by the Louisiana Department of Health and submitted to the state fire marshal for review in accordance with R.S. 40:1563(L) shall be drawn in accordance with the applicable requirements of the following publications:

1. the 2014 edition of the Facility Guidelines Institute publication titled *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*, where required by rules published by the Louisiana Department of Health for hospitals and outpatient facilities;
2. the 2014 edition of the Facility Guidelines Institute publication titled *Guidelines for Design and Construction of Residential Health, Care, and Support Facilities*, where required by rules published by the Louisiana Department of Health for residential health, care, and support facilities;
3. rules published by the Louisiana Department of Health as applicable to the physical environment for licensed or certified facilities.

D. All unsprinkled dwelling units within apartment buildings shall be separated from one another by construction having a fire resistance rating of not less than one hour as required by the standard building code.

E. Portable fire extinguishers shall be required in all occupancies. The location, maintenance, and installation shall be in accordance with *NFPA Pamphlet Number 10*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F), R.S. 40:1563(L), and R.S. 40:1578.6(A).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 1:143 (February 1975), amended LR 5:468 (December 1979), LR 6:72 (February 1980), amended by the Office of the State Fire Marshal, LR 7:344 (July

1981), LR 7:588 (November 1981), LR 9:417 (June 1983), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 12:116 (February 1986), LR 15:96 (February 1989), LR 17:1115 (November 1991), LR 23:1692 (December 1997), LR 30:1305 (June 2004), LR 33:673 (April 2007), LR 36:1565 (July 2010), LR 39:1480 (June 2013), LR 43:

§307. Observation of Construction; Final Inspection

A. ...

B. Upon completion of such work, where the law requires the owner to engage an architect or registered civil engineer, the owner shall furnish to the fire marshal a certificate signed by a registered architect or registered civil engineer stating that the periodic observations have been made and that to the best of the architect's or engineer's knowledge, information and belief, the work was completed in accordance with those fire safety standards and regulations stipulated in the plans and specifications previously approved by the fire marshal. When the owner has not engaged an architect or registered civil engineer, and the same is not required by law, the owner must submit the certificate of completion when appropriate, but always under his signature. Electronic certification made through the state fire marshal online portal shall be acceptable.

C. ...

D. In order to comply with the requirements of §307.B, the owner must submit to the fire marshal the following certificate completed by the architect, civil engineer, or, if neither is required by law, the owner. In lieu of the following completed certificate, electronic certification made through the state fire marshal online portal shall be acceptable.

CERTIFICATE OF COMPLETION

Date:

TO: The Louisiana State Fire Marshal
8181 Independence Blvd.
Baton Rouge, Louisiana 70806

This is to certify that the _____
(name of project by title)
for _____ located at _____
(type of use) (street/number/name)

as periodically observed by me, by my consultants, and/or by others in my employ during construction and, to the best of my knowledge, information and belief, has been completed in accordance with the safety provisions which were shown in the plans and specifications previously approved by the fire marshal.

Under penalty of law for false statement,

I _____ License Number: _____
(name of architect/civil engineer
or owner if architect or engineer
is not required)

certify that all statements contained therein are, to the best of my knowledge, information and belief, true and correct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 3:498 (December 1977), repromulgated LR 6:73 (February 1980), amended by the Office of the State Fire Marshal, LR 8:523 (October 1982), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1692 (December 1997), LR 43:

§309. Requirements for Connection of Electrical Power

A. The installation and/or use of temporary or permanent electrical power in new construction shall be prohibited until plans and specifications for every structure built in the state of Louisiana are reviewed by the Office of the State Fire Marshal pursuant to R.S. 40:1574 and LAC 55:V.303 and found to comply with the requirements.

B. Proof of compliance shall be presented to utility companies upon request for temporary or permanent power.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 17:272 (March 1991), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1692 (December 1997), LR 43:

Chapter 11. Modular Structures

§1101. Modular Structures Definition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:363 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997), repealed LR 43:

§1103. Applicability of the Fire Marshal's Act

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:363 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997), repealed LR 43:

§1105. Certificate of Manufacturer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:364 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997), repealed LR 43:

§1107. Local Authority Supercedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1651(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 5:364 (November 1979), repromulgated LR 6:76 (February 1980), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1697 (December 1997), repealed LR 43:

Chapter 15. Public Places in General

§1501. Equal Access for Disabled Individuals

A. Buildings, structures, public facilities, governmental facilities and improved areas built between January 1, 1978 and August 14, 1995 shall be covered by the standards put forward in ANSI 117.1. Such entities built on or after August 14, 1995 and before September 30, 2011 shall be covered by the ADAAG guidelines to the Americans with Disabilities Act in effect on September 1, 1994. Such entities built on or after October 1, 2011 shall be covered by the Americans with Disabilities Act and *Architectural Barriers Act*

Accessibility Guidelines published July 23, 2004 (ADA-ABA).

B. Multi-family dwelling units of more than 15 dwelling units must have at least 5 percent but no fewer than 1 dwelling unit which meets the regulations specified by the Americans with Disabilities Act and *Architectural Barriers Act Accessibility Guidelines* published July 23, 2004 (ADA-ABA) for residential facilities, sections 233 and F233 as applicable.

C. Any dwelling unit in a facility which incorporates four or more dwelling units shall be made accessible in accordance with the *HUD Fair Housing Accessibility Guidelines* published on March 6, 1991, 56 *Federal Register* 9472, 24 CFR chapter 1, subchapter A, appendix II and III (1991) and the *Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines*, published on June 28, 1994, and the *HUD Fair Housing Act Design Manual*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 40:1734(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Fire Protection, LR 4:465 (November 1978), repromulgated LR 6:74 (February 1980), amended by the Office of the State Fire Marshal, LR 7:588 (November 1981), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1698 (December 1997), LR 32:1906 (October 2006), LR 43:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1571(A).

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR 107) of the 2014 Regular Session of the Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on providers. However, the particular proposed Rule does not impact or affect the staffing level requirements required to provide the same level of service.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than March 10, 2017, at 4:30 p.m. to Joe Delaune, Office of State Fire Marshal, Plan Review Section, 8181 Independence Blvd., Baton Rouge, LA 70806. A public hearing will be scheduled if the requisite number of comments are received by the deadline date.

Jason Starnes, LTC
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Code Enforcement and Building Safety—Fire Protection

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any costs or savings to state or local governmental units. The modifications to the existing rules are necessary for the Office of the State Fire Marshal (OSFM) to be up to date with construction means, methods and technology changes, to allow for electronic submission of proof of compliance to the OSFM's electronic submission system, and to coordinate with code adoptions made by the Louisiana State Construction Code Council.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes are not more stringent than those that are currently adopted and will only affect construction costs for applicable buildings to the extent firms use the newest technology, materials, and methods allowable under the proposed rule changes, which may be more expensive. In the event the new technology, materials, and methods of construction are more expensive, any increased costs for firms would likely be passed on to consumers funding construction of buildings under the new guidelines in the proposed rule changes. However, the proposed rule changes do not prohibit the use of older construction methods, so firms – and therefore consumers – will only incur additional costs to the extent they choose to use the newest methods and technology.

Furthermore, consumers who are funding construction of a new building may realize an economic benefit in the event they utilize the newest construction methods, materials, and technology, such as a building with a longer usable life, reduced maintenance costs, improved building safety, etc.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may have a marginal effect on competition, as firms who utilize the newest construction methods and technology may incur additional costs, which may then be passed on to consumers, resulting in a potential loss of business that would be offset in part or in whole by charging higher rates for use of the most recent methods and technology. However, this effect will likely be marginal, and will not likely affect aggregate business activity statewide. The proposed rules will not affect employment.

Jason S. Starnes
Chief Administrative Officer
1702#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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, proposes to enact LAC 55.VII.333 relative to alcoholic beverage container label registration.

The proposed 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:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed rulemaking has no known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments until 4:30 p.m., Monday, March 13, 2017 to Commissioner Juana Marine-Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896.

Juana Marine-Lombard
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Alcohol Beverage Container Label Registration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in any savings or costs to state or local governmental units. The proposed rules provide registration requirements for alcoholic beverage container labels in accordance with Act 393 of 2015 and LA R.S. 26:793(D). Container labels are required to comply with federal law requirements and a third-party provider processes the state registrations in conjunction with federal registrations at no cost to the state or local government units. The third-party processor levies a \$5 fee for all registrations, which it uses to defray any costs it may incur associated with processing registrations. Accordingly, there will be no direct costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect revenue collections for state or local governmental units. A third-party provider processes label registrations and collects all associated fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The processing of label registrations will cost alcoholic beverage manufacturers, suppliers, and importers \$5 per brand label annually, which is payable to the third-party provider ATC has contracted with to perform this service. The aggregate cost to firms associated with the \$5 fee per brand label is indeterminable, as the number of products that will have labels certified in a given year is unknown.

Furthermore, the third-party processor will collect an indeterminable amount of revenues associated with collecting a \$5 per-label registration fee. Revenues derived from the fee

will likely be used to offset any costs, in whole or in part, associated with processing label registrations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may create a marginal effect on competition, as they create another cost of business for firms, as well as another regulatory requirement for firms to meet. However, it is unlikely that the proposed rules will affect aggregate competition statewide.

The proposed rules will not affect employment.

Juana Marine-Lombard
Commissioner
1702#029

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Office of Workers' Compensation Administration**

Hearings—Commencement to a Claim (LAC 40:I.5507)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the medical guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 3, Hearing Rules, Chapter 55, regarding implementation of medical treatment guidelines. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 3. Hearing Rules

Chapter 55. General Provisions

Subchapter C. Commencement

§5507. Commencement of a Claim

A. Form LWC-WC-1008 shall be the form to initiate a claim or dispute arising out of chapter 10 of title 23 of the *Louisiana Revised Statutes* of 1950, except that:

B. ...

C. A carrier/self-insured employer aggrieved by the R.S. 23:1203.1(J) determination of the medical director or an associate medical director shall seek an appeal by filing a form LWC-WC-1008 in a workers' compensation district office of proper venue within 15 calendar days of the date said determination is transmitted or mailed to the parties. After the expiration of the 15 calendar days, and provided that the carrier/self-insured employer has not approved in writing to the health care provider, employee, or employee's attorney, the medical care as provided in the LWC-WC-1009 decision, or filed an appeal pursuant to the this section, the health care provider or employee may file a LWC-WC-1008 to enforce the LWC-WC-1009 decision. A party filing an appeal under this Section must simultaneously notify the other party and the medical director that an appeal of the medical director's decision has been filed. Upon receipt of the appeal, the workers' compensation judge shall set the matter for an expedited hearing to be held not less than 15

days nor more than 30 days after the filing of the LWC-WC-1008. The workers' compensation judge shall provide notice of the hearing date to the parties at the same time and in the same manner.

D. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1(C).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999) amended LR 25:1860 (October 1999), LR 33:652 (April 2007), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 37:1626 (June 2011), LR 41:560 (March 2015), LR 43:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to implement the Rule.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to the Director, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802, and should be received on or before March 10, 2017.

Public Hearing

A public hearing will be held on March 31, 2017, at 10:30 a.m., at the LaSalle Building, 617 North Third Street, First Floor, in the LaBelle Hearing Room in Baton Rouge, LA. The public is invited to attend.

Ava Dejoie
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Hearings—Commencement to a Claim

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Title 40 Labor and Employment, Part I Workers' Compensation Administration, Subpart 3 Hearing Rules, Subchapter C, Chapter 55, Section 5507 Commencement of a Claim in order to comply with jurisprudence and current revised statutes.

Besides the cost to publish in the *Louisiana Register*, the proposed rules will not require any additional expenditure by the Office of Workers' Compensation (OWCA) nor will the proposed rules result in any savings to OWCA. Likewise, it is not anticipated that the proposed rules will result in any costs or savings to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule 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)

OWCA does not anticipate that the proposed rule will produce a direct economic benefit to any person. The agency anticipates the proposed rule will provide an indirect benefit to all stakeholders within the workers' compensation community as a result of complying with current statutes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Sheral Kellar
Director
1702#064

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Office of Workers' Compensation Administration**

Medical Treatment Guidelines—Upper and Lower
Extremities Medical Treatment and Utilization Review
(LAC 40:1.2328, 2715, and 2718)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the Medical Guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapters 23 and 27, regarding implementation of medical treatment guidelines. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C).

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

**Chapter 23. Upper and Lower Extremities Medical
Treatment Guidelines**

§2328. LWC-WC 1009. Disputed Claim for Medical Treatment

A. Disputed Claim for Medical Treatment

E-Mail to: medicalservices@lwc.la.gov
Fax to: OWCA – Medical Services
ATTN: Medical Director
(225) 342-6556
Mail to: Medical Services
P.O. Box 94040
Baton Rouge, LA 70804

1. Last four digit of Social Security No. _____
2. Date of Injury/Illness ____ - ____ - ____
3. Parts of Body Injured _____
4. Date of Birth ____ - ____ - ____
5. Date of This Request ____ - ____ - ____
6. Claim Number _____

DISPUTED CLAIM FOR MEDICAL TREATMENT

NOTE: THIS REQUEST WILL NOT BE HONORED UNLESS THERE ARE MEDICAL SERVICES IN DISPUTE AS PER R.S. 23:1203.1 J AND THE FOLLOWING HAS OCCURRED:

- A. The insurer has issued a denial.**
- B. The insurer has issued an approval with modification.**
- C. The insurer's failure to act has resulted in a tacit denial.**
- D. Actual notice of 1010 received: (date) ____ / ____ / ____**
- E. Is the aggrieved party seeking a variance from the medical treatment schedule? Yes No**

DISPUTES RELATING TO COMPENSABILITY AND/OR CAUSATION ARE NOT ADDRESSED BY THE MEDICAL DIRECTOR.

GENERAL INFORMATION

An aggrieved party files this dispute with the Office of Workers' Compensation – Medical Services Director. This office must be notified immediately in writing of changes in address. An employee may be represented by an attorney, but it is not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Workers Compensation Administration, LR 38:3254 (December 2012), LR 43:

Chapter 27. Utilization Review Procedures

§2715. Medical Treatment Schedule Authorization and Dispute Resolution

A. ...

B. Statutory Provisions

1. Emergency Care

a. In addition to all other utilization review rules and procedures, R.S. 23:1142 provides that no prior consent by the carrier/self-insured employer is required for any emergency medical procedure or treatment deemed immediately necessary by the treating health care provider. Any health care provider who authorizes or orders diagnostic testing or treatment subsequently held not to have been of an emergency nature shall be responsible for all of the charges incurred in such testing or treatment. Such health care provider shall bear the burden of proving the emergency nature of the diagnostic testing or treatment pursuant to Subsection M.

b. Fees for those services of the health care provider held not to have been of an emergency nature shall not be an enforceable obligation against the employee or the employer or the employer's workers' compensation insurer unless the employee and the payor have agreed upon the treatment or diagnostic testing by the health care provider.

2. Non-Emergency Care.

a. In addition to all other utilization review rules and procedures, the law (R.S. 23.1142) establishes a monetary limit for non-emergency medical care. No health care provider shall incur more than a total of \$750 in non-emergency diagnostic testing or treatment without the mutual consent of the carrier/self-insured employer and the employee. The statute further provides significant penalties for a carrier's/self-insured employer's arbitrary and capricious refusal to approve necessary care beyond that limit.

3. Medical Treatment Schedule

a. ...

b. Pursuant to R.S. 23:1203.1(I), medical care, services, and treatment that varies from the promulgated medical treatment schedule shall also be due by the employer when it is demonstrated to the medical director or associate medical director of the Office of Workers' Compensation by a preponderance of the scientific medical evidence, that a variance from the medical treatment schedule is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances.

c. Pursuant to R.S. 23:1203.1(M), with regard to all treatment not covered by the medical treatment schedule, all medical care, services, and treatment shall be in accordance with subsection D of R.S. 23:1203.1, or if not found in subsection D, then in accordance with subsection C of R.S. 23:1203.1 as provided by R.S. 23:1203.1(M)(2).

d. Except as provided pursuant to D.2, all requests for authorization of care beyond the statutory non-emergency monetary limit of \$750 are to be presented to the carrier/self-insured employer. R.S. 23:1203.1(J) provides

that after a health care provider has submitted to the carrier/self-insured employer the request for authorization and the information required pursuant to this Section, the carrier/self-insured employer shall notify the health care provider of their action on the request within five business days of receipt of the request. In accordance with these utilization review rules, the carrier/self-insured employer or a utilization review company acting on its behalf shall determine if such request is in accordance with the medical treatment schedule. If the request is denied or approved with modification and the health care provider determines to request a variance from the medical director or associate medical director, then a LWC-WC-1009 shall be filed as provided in Subsection J of this Section.

e. Disputes shall be filed by any aggrieved party on a LWC-WC-1009 within 15 calendar days of receipt of the denial or approval with modification of a request for authorization. The medical director or associate medical director shall render a decision as soon as practicable, but in no event later than 30 calendar days from the date of filing. The decision shall determine whether:

i. the recommended care, services, or treatment is in accordance with the medical treatment schedule; or

ii. a variance from the medical treatment schedule is reasonably required; or

iii. the recommended care, services, or treatment that is not covered by the medical treatment schedule is in accordance with another state's adopted guideline pursuant to subsection D of R.S. 23:1203.1 or if not found in Subsection D then in accordance with subsection C of R.S. 23:1203.1 as provided by R.S. 23:1203.1(M)(2).

f. Any party feeling aggrieved by the R.S. 23:1203.1(J) determination of the medical director or associate medical director shall seek an appeal by filing a Form LWC-WC-1008 as provided in Subsection K.

C. Minimum Information for Request of Authorization

1. - 1.e. ...

2. To make certain that the request for authorization meets the requirements of this Subsection, the health care provider should review the medical treatment schedule for each area(s) of the body to obtain specific detailed information related to the specific services or diagnostic testing that is included in the request. Each section of the medical treatment schedule contains specific recommendations for clinical evaluation, treatment and imaging/testing requirements. The medical treatment guidelines (Title 40) can be viewed on the Office of the State Register website. The specific URL is <http://www.doa.la.gov/Pages/osr/lac/books.aspx>

3. Subsequent Request for Authorizations. After the initial request for authorization, subsequent requests for additional diagnostic testing or treatment by the same health care provider does not require that the healthcare provider meet all of the initial minimum requirements listed above. Subsequent requests require only updates to the information of Subparagraphs 1.a-e above. However such updates must demonstrate the patient's current status to document the need for diagnostic testing or additional treatment. A brief history, changes in clinical findings such as orthopedic and neurological tests, and measurements of function and improvements thereof with emphasis on the current, specific

physical limitations will be important when seeking approval of future care. The general principles of the medical treatment schedule are:

a. - b. ...

4. Pursuant to R.S. 23:1203.1(J)(1) and this Section, the information provided for a request for authorization, and therefore any subsequent appeal is limited.

a. Information submitted to the carrier/self-insured employer, and if subsequently provided to the medical director, associate medical director, or worker's compensation judge, must be directly related to the medical necessity of the request for authorization. Pursuant to E;

i. no information shall be provided to the medical director or associate medical director that has not already be provided to the carrier/self-insured employer with a LWC-WC-1010 or the remand/new evidence section of the LWC-WC-1010.

ii. any information admitted as evidence by the workers' compensation judge that was not provided to the carrier/self-insured employer on a previous LWC-WC-1010 or remand/new evidence section of the LWC-WC-1010, shall be submitted by the party presenting it to the workers' compensation judge to the carrier/self-insured employer on the remand/new evidence section as provided in E and F.

b. Examples of information that are not to be submitted include:

i. billing records; and

ii. surveillance reports or audio/video recordings; and

iii. radiological films including MRI and x-ray; and

D. Submission and Process for Request for Authorization

1. - 3.b. ...

4. Information provided by carrier/self-insured employer

a. The carrier/self-insured employer shall provide to the OWC a fax number and/or email address to be used for purposes of these rules and particularly for LWC-WC-1010. If the fax number and/or email address provided is for a utilization review company contracted with the carrier/self-insured employer, then the carrier/self-insured employer shall provide the name of the utilization review company to the OWC. All carrier/self-insured employer fax numbers and/or email addresses provided to the OWC will be posted on the office's website at www.laworks.net. If the fax number or e-mail address is for a contracted utilization review company, then the OWC will also post on the web the name of the utilization review company. When requesting authorization and sending the LWC-WC-1010, the health care provider shall use the fax number and/or email address found on the OWC website.

b. The carrier/self-insured employer shall also provide to the OWC a contact phone number associated with the email address or fax number. The phone number will be posted on the website as well. The phone number is being provided to assist the health care provider with any problems in their submission to the required email address or fax number.

c. The carrier/self-insured employer shall update the OWC with the information provided by this Section. A failure to update the email address, fax number, name of any contracted utilization review company if applicable, and the

phone number within 10 days of any change shall result in an administrative penalty subject to LAC 40:109.

5. Pursuant to R.S. 23:1203.1, the five business days to act on the request for authorization does not begin for the carrier/self-insured employer until the information of Subsection C and LWC-WC-1010 is received. In the absence of the submission of such information, any denial of further non-emergency care by the carrier/self-insured employer is prima facie, not arbitrary and capricious. A carrier/self-insured employer who fails to act on a request for authorization that contains the information of Subsection C and the LWC-WC-1010 within five business days may, upon a finding by the Director of three or more instances in a six month period, be subjected to one administrative penalty pursuant to LAC 40:109. Any subsequent instances of a failure to act on a request for authorization per this Section may, upon discretion of the Director, be subjected to an administrative penalty pursuant to LAC 40:109 for each instance.

E. Submission of Additional Information after Initial LWC-WC-1010 and New Evidence Admitted by Workers' Compensation Judge

1. Any information pursuant to Subsection C, and any other evidence, to be evaluated by the medical director, associate medical director, or the workers' compensation judge pursuant to R.S. 23:1203.1 or this Section for any request for authorization shall be submitted to the carrier/self-insured employer on a LWC-WC-1010 or a remand/new evidence section of the applicable LWC-WC-1010 for the carrier/self-insured employer to act on the request for authorization pursuant to the time delays and provisions of Subsection G. The time-delays and provisions of this Section shall apply to any subsequent LWC-WC-1009 and decision of the medical director or associate medical director or any subsequent LWC-WC-1008 and appeal for a workers' compensation judge decision.

2. After the submission of an initial LWC-WC-1010 by a health care provider for a specific request for authorization, and at any time while that request for authorization is not final pursuant to this Section, the remand/new evidence section of the LWC-WC-1010 shall be submitted to the carrier/self-insured employer when:

a. any information of Subsection C that has not been provided to the carrier/self-insured on a previous LWC-WC-1010 or remand/new evidence section is being presented in support of a request for authorization; or

b. a workers' compensation judge admits any other evidence into the record to support the medical necessity of that request for authorization that has not been provided to the carrier/self-insured employer on a previous LWC-WC-1010 or remand/new evidence section.

3. A remand/new evidence section submission is provided to the carrier/self-insured employer in accordance with the requirements of this Section regarding the submission of a LWC-WC-1010. A remand/new evidence section submission may be provided by a health care provider, employee, or employee's attorney. The health care provider, employee, or employee's attorney submitting a remand/new evidence section of a LWC-WC-1010 shall:

a. fill out in the remand/new evidence section of Form 1010; and

b. provide their signature to certify that they are attaching the records or documents identified in the remand/new evidence section; and

c. provide their signature to certify that they are submitting the LWC-WC-1010 with the remand/new evidence section submission to the carrier/self-insured in accordance with the provisions of this Section.

F. New Evidence Effect on Pending LWC-WC-1009 and LWC-WC-1008

a. A specific request for authorization is still not final if there are time delays still allowed pursuant to Subsection G, J, or K, and including if there is a pending decision of a workers' compensation judge on a LWC-WC-1008 dispute for the applicable LWC-WC-1010. A remand/new evidence section submission shall be provided by the health care provider, employee, or the employee's attorney upon their respective signature that the records or documents identified on the remand/new evidence section are attached to the previously submitted LWC-WC-1010, and are being submitted to the carrier/self-insured employer in accordance with the provisions of this Section. The carrier/self-insured employer shall act on the LWC-WC-1010 and remand/new evidence section pursuant to the time delays and provisions of Subsection G. The time-delays and provisions of this Section shall apply to any appeal of the decision of the carrier/self-insured employer.

b. The workers' compensation judge who admits any evidence regarding the request for authorization that was not provided to the carrier/self-insured employer on a previous LWC-WC-1010 or remand/new evidence section of the LWC-WC-1010 shall stay the LWC-WC-1008 proceeding. The party that presented the new evidence now admitted by the workers' compensation judge shall within 15 days submit the remand/evidence section of the applicable LWC-WC-1010 to the carrier/self-insured employer as provided in this subsection.

c. The submission of a remand/new evidence section of a LWC-WC-1010 while the previous LWC-WC-1010, LWC-WC-1009 or an appeal before a workers' compensation judge is pending with a LWC-WC-1008 shall result in the remand/new evidence LWC-WC-1010 replacing the previous LWC-WC-1010. The health care provider, employee, or employee's attorney submitting the remand/new evidence section shall also submit the form to the OWC medical services if a LWC-WC-1009 is pending or to the appropriate district office if an appeal is pending with a LWC-WC-1008. Any pending LWC-WC-1009 or LWC-WC-1008 shall be stayed. The stay may be lifted if the LWC-WC-1010 remand/new evidence section is appealed by an aggrieved party in accordance with the provisions of this Section.

G. Approval or Denial of Authorization for Care

1. ...

a. the carrier/self-insured employer will return to the health care provider Form 1010, and indicate in the appropriate section on the form that: "The requested treatment or testing is approved," if the request is in accordance with the medical treatment schedule. The LWC-WC-1010 shall also be sent concurrently to the employee or employee's attorney, if known, by facsimile or email, or in the absence thereof, by U.S. mail; or

b. the carrier/self-insured employer will return to the health care provider, the LWC-WC-1010, and indicate in the appropriate section on the form: "The requested treatment or testing is approved with modification," if the carrier/self-insured employer determines that modifications are necessary in order for the request for authorization to be in accordance with the medical treatment schedule, or that a portion of the request for authorization is denied because it is not in accordance with the medical treatment schedule. The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why a part of the request for authorization is not in accordance with the medical treatment schedule and explain any modification to the request for authorization. The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider. The LWC-WC-1010 shall also be sent concurrently to the employee, or the employee's attorney, if known, by facsimile or email, or in the absence thereof, by U.S. mail; or

c. the carrier/self-insured employer will return to the health care provider, the LWC-WC-1010, and indicate in the appropriate section on the form: "The requested treatment or testing is denied," if the carrier/self-insured employer determines that the request for authorization is not in accordance with the medical treatment schedule. The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why the request for authorization is not in accordance with the medical treatment schedule. The LWC-WC-1010 and the summary of reasons shall be faxed or mailed to the health care provider. The LWC-WC-1010 shall also be sent concurrently to the employee, or the employee's attorney, if known, by facsimile or email, or in the absence thereof, by U.S. mail.

2. Request for Authorization not Covered by the Medical Treatment Schedule. Requests for authorization of medical care, services, and treatment that are not covered by the medical treatment schedule in accordance to R.S. 23:1203.1(M), must follow the same prior authorization process established for all other requests for medical care, services, and treatment. A request for authorization that is not covered by the medical treatment schedule exists when the requested care, services, or treatment are for a diagnosis not addressed by the medical treatment schedule. The health care provider requesting care, services, or treatment that is not covered by the medical treatment schedule may submit documentation sufficient to establish that the request is in accordance with R.S. 23:1203.1(D) or if not found in a guideline pursuant to R.S. 23:1203.1(D), then in accordance with the principles of R.S. 23:1203.1(C) by demonstrating that a preponderance of the scientific medical evidence supports approval of the treatment that is not covered. After timely receipt of the LWC-WC-1010, the submitted documentation if any, and the required medical information in accordance with this Section, the carrier/self-insured employer shall determine whether the request for authorization is in accordance with R.S. 23:1203.1(M). In making this determination, the carrier/self-insured employer shall review the submitted documentation, but may apply another guideline that meets the criteria of R.S. 23:1203.1(D) or other scientific medical evidence for a

request pursuant to R.S. 23:1203.1(C). The carrier/self-insured employer has five business days to notify the health care provider of the carrier/self-insured employer's action on the request:

a. the carrier/self-insured employer will return to the health care provider the LWC-WC-1010, and indicate in the appropriate section on the form that: "The requested treatment or testing is approved," if the request is in accordance with R.S. 23:1203.1(M); or

b. the carrier/self-insured employer will return to the health care provider, the LWC-WC-1010, and indicate in the appropriate section on the form: "The requested treatment or testing is approved with modification," if the carrier/self-insured employer determines that modifications are necessary in order for the request for authorization to be in accordance with R.S. 23:1203.1(M), or that a portion of the request for authorization is denied because it is not in accordance with R.S. 23:1203.1(M). The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why a part of the request for authorization is not in accordance with R.S. 23:1203.1(M). The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider. The LWC-WC-1010 shall also be sent concurrently to the employee, or the employee's attorney, if known, by facsimile or email, or in the absence thereof, by U.S. mail; or

c. the carrier/self-insured employer will return to the health care provider, the LWC-WC-1010, and indicate in the appropriate section on the form "the requested treatment or testing is denied" if the carrier/self-insured employer determines that the request for authorization is not in accordance with R.S. 23:1203.1(M). The carrier/self-insured employer shall include with the LWC-WC-1010 a summary of reasons why the request for authorization is not in accordance with R.S. 23:1203.1(M). The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider. The LWC-WC-1010 shall also be sent concurrently to the employee, or the employee's attorney, if known, by facsimile or email, or in the absence thereof, by U.S. mail.

3. Summary of Reasons. The summary of reasons provided by the carrier/self-insured employer with the approval with modification or denial shall include:

- a. the name of the employee;
- b. the date of accident;
- c. the name of the health care provider requesting authorization;
- d. the decision (approved with modification, denied);
- e. the clinical rationale to include a brief summary of the medical information reviewed;
- f. the criteria applied to include specific references to the medical treatment schedule, or to the guidelines adopted in another state if the requested care, services or treatment is not covered by the medical treatment schedule; and

g. a section labeled "voluntary reconsideration" pursuant to Paragraph I.2 of this Section that includes a phone number that will allow the health care provider to speak to a person with the carrier/self-insured employer or its utilization review company with authority to reconsider a denial or approval with modification.

4. Upon receipt of the LWC-WC-1010 and the required medical information in accordance with this Section, the carrier/self-insured employer shall have five business days to notify the health care provider of the carrier/self-insured employer's action on the request. Based upon the medical information provided pursuant to this Section, and other information known to the carrier/self-insured employer at the time of the request for authorization, the carrier will return to the health care provider, the LWC-WC-1010 and indicate in the appropriate section on the form: "The requested treatment or testing is denied for reasons other than medical necessity because:

- a. the request for authorization or a portion thereof is not related to the on-the-job injury;" or
- b. the claim is non-compensable;" or
- c. other" and provide a brief explanation for the basis of denial.

5. The LWC-WC-1010 and the summary of reasons shall be faxed or emailed to the health care provider. The LWC-WC-1010 and the summary of reasons shall also be sent concurrently to the employee, or the employee's attorney, if known, by facsimile or email, or in the absence thereof, by U.S. mail.

6. A carrier/self-insured employer may not delay a request for authorization for lack of a return phone call from the health care provider. A peer-to-peer discussion is not contemplated by this Section.

H. Failure to respond by carrier/self-insured employer. A carrier/self-insured employer who fails to return LWC-WC-1010 with section 3 completed within the five business days to act on a request for authorization as provided in this Section is deemed to have denied such request for authorization. A health care provider, employee, or employee's attorney if represented who chooses to appeal a denial pursuant to this Subsection shall file a LWC-WC-1009 pursuant to Subsection J of this Section. A carrier/self-insured employer who fails to act on a request for authorization that contains the information of Subsection C and the LWC-WC-1010 within five business days may, upon a finding by the director of three or more instances in a six-month period, be subjected to one administrative penalty pursuant to LAC 40:109. Any subsequent instances of a failure to act on a request for authorization per this Section may, upon discretion of the director, be subjected to an administrative penalty pursuant to LAC 40:109 for each instance.

I. Reconsideration Prior to LWC-WC-1009 Decision

1. ...
2. In furtherance of that goal, the LWC-WC-1010 and the summary of reasons provided by the carrier/self-insured employer with the denial or approved with modification will include a statement that the health care provider is encouraged, but not required to contact the carrier/self-insured employer to discuss reconsideration of the denial or approval with modification. The carrier/self-insured employer shall include on the summary of reasons a section labeled "voluntary reconsideration," and include a phone number that will allow the health care provider to speak to a person with the carrier/self-insured employer or its utilization review company with authority to reconsider the previous denial or approval with modification.

3. Reconsideration after denied or approved with modification. If the carrier/self-insured employer determines that the requested care should now be approved, it will return to the health care provider within 10 calendar days of the denial or approval with modification, the LWC-WC-1010, and in the appropriate section on the form indicate: "The prior denied or approved with modification request is now approved." The LWC-WC-1010 shall also be sent concurrently to the employee, or the employee's attorney, if known, by facsimile or email, or in the absence thereof, by U.S. mail. Such approval ends the utilization review process as it relates to the request. A LWC-WC-1009 or 1008 shall not be filed regarding such request. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change its decision of denied or approved with modification to approved after discussing the request with the health care provider.

4. Reconsideration after deemed denied due to failure to respond. A request for authorization that is deemed denied pursuant to Subsection H of this Section may be approved by the carrier/self-insured employer within 10 calendar days of the request for authorization as indicated on the LWC-WC-1010. The approval will be indicated in section 3 of LWC-WC-1010. The medical director or associate medical director shall dismiss any appeal that may have been filed by a LWC-WC-1009. The carrier/self-insured employer shall be given a presumption of good faith regarding the decision to change the denial to an approval provided that the LWC-WC-1010 which indicates "approved" in section 3 is faxed or emailed within 10 calendar days of the request for authorization.

J. Review of Denial, Approved with Modification, Deemed Denied, or Variance by LWC-WC-1009

1. Any aggrieved party who disagrees with a request for authorization that is denied, approved with modification, deemed denied pursuant to Subsection H, or who seeks a determination from the medical director or associate medical director with respect to medical care, services, and treatment that varies from the medical treatment schedule shall file a request for review with the OWC Medical Services Section. The request for review shall be filed within 15 calendar days of:

a. receipt of the LWC-WC-1010 by the health care provider, employee, or employee's attorney indicating that care has been denied or approved with modification; or

b. the expiration of the fifth business day without response by the carrier/self-insured employer pursuant to Subsection H of this Section;

c. actual notice of the LWC-WC-1010 by the employee or employee's attorney after the expiration of the fifth business day without response by the carrier/self-insured employer, provided however that if 90 days has passed since the initial LWC-WC-1010 was faxed or emailed for authorization, a new LWC-WC-1010 must be filed by the health care provider instead of the LWC-WC-1010 remand/new evidence section.

2. The request for review shall include:

a. LWC-WC-1009/disputed claim for medical treatment which shall state the reason for review is either;

i. - ii. ...

iii. a request for authorization that is deemed denied pursuant to Subsection H; or

a.iv. - c. ...

d. in cases where a variance has been requested from the medical director or associate medical director, the health care provider employee, or employee's attorney shall also provide any other evidence supporting the position of the health care provider or the employee demonstrating by a preponderance of scientific medical evidence that a variance from the medical treatment schedule is reasonably required to cure or relieve the claimant from the effects of the injury or occupational disease given the circumstances.

3. The request for review shall not include any information that was not previously submitted with a LWC-WC-1010 or remand/new evidence section of the LWC-WC-1010. The request for review shall not include any information from the carrier/self-insured employer other than the summary of reasons provided in response to the LWC-WC-1010, and any summary provided pursuant to Subparagraph 6.a of this Subsection. The parties are prohibited from providing any information unrelated to the determination of the medical necessity of the request for authorization, and specifically including billing records, surveillance video and reports, administrative reports, and recorded statements.

4. In cases where the requested care, services, or treatment are not covered by the medical treatment schedule pursuant to R.S. 23:1203.1(M):

a. the health care provider, employee or employee's attorney may also submit with the LWC-WC-1009 the documentation provided to the carrier/self-insured employer pursuant to Paragraph G2 of this Section; and

b. the carrier/self-insured employer may submit to the medical director or associate medical director within five business days of receipt of the LWC-WC-1009 from the health care provider employee, or employee's attorney the documentation used by the carrier/self-insured employer to deny or approve with modification the request for authorization pursuant to R.S. 23:1203.1(M). A copy of the information being submitted to the medical director must be provided by fax or email to the health care provider, the employee, or the employee's attorney, if known, and in absence thereof by U.S. mail.

5. The health care provider employee, or employee's attorney filing the LWC-WC-1009 shall certify that such form and all supporting documentation has been concurrently sent to the carrier/self-insured employer by email or fax. Failure to concurrently send the LWC-WC-1009 and all supporting documentation to the carrier/self-insured employer may, upon the discretion of the Director, subject the health care provider, employee or employee's attorney to an administrative penalty pursuant to LAC 40:109 for each instance. The OWC shall notify all parties of receipt of a LWC-WC-1009 by facsimile or email, or in the absence thereof, by U.S. mail.

6.a. Within five business days of receipt of the LWC-WC-1009 from the health care provider employee, or employee's attorney, the carrier/self-insured employer may provide to the medical director or associate medical director, a summary of less than three pages identifying any information provided to the carrier/self-insured employer that was not provided with the LWC-WC-1009, and any information submitted with the LWC-WC-1009 that was contrary to the provisions of this Section not also provided

to the carrier/self-insured employer with the LWC-WC-1010. A copy of the summary shall be concurrently provided to the health care provider, employee, or employee's attorney, if known, or in the absence thereof, by U.S. mail.

b. The medical director or associate medical director shall within 30 calendar days of receipt of the LWC-WC-1009, and consideration of any summary from the carrier/self-insured employer if provided within such 5 business days, render a decision as to whether the request for authorization is medically necessary and is:

i. ...

ii. in accordance with R.S. 23:1203.1(D) or (C) if such request is not covered by the medical treatment schedule as provided by R.S. 23:1203.1(M); or

iii. whether the health care provider or employee demonstrates by a preponderance of the scientific medical evidence that a variance from the medical treatment schedule is reasonably required.

c. The decision of the medical director or associate medical director shall be provided to the health care provider, employee, employee's attorney, if known, and the carrier/self-insured employer by facsimile or email, or in the absence thereof, by U.S. mail. The decision shall include:

i. the date the decision is transmitted or mailed to the parties; and

ii. the name of the employee, the health care provider, and the carrier/self-insured employer; and

iii. the date of accident and a MGD number assigned by the OWC Medical Services Section; and

iv. - vi. ...

K. Appeal of 1009 Decision by Filing 1008

1. In accordance with LAC 40:I.5507.C, a carrier/self-insured employer aggrieved by the R.S. 23:1203.1(J) determination of the medical director or associate medical director shall seek an appeal by filing a Form LWC-WC-1008 in a workers' compensation district office of proper venue within 15 calendar days of the date said determination is transmitted or mailed to the parties. After the expiration of the 15 calendar days, and provided that the carrier/self-insured employer has not approved in writing to the health care provider, employee, or employee's attorney, the medical care as provided in the LWC-WC-1009 decision, or filed an appeal pursuant to LAC 40:I.5507, the health care provider or employee may file a LWC-WC-1008 to enforce the LWC-WC-1009 decision.

2. The LWC-WC-1008 filed on behalf of the health care provider, employee or carrier/self-insured employer shall specify the date and the MDG docketing number assigned to the medical director or associate medical director's decision, and the party seeking judicial review shall certify that a copy of the LWC-WC-1008 has been provided to all other parties.

3. Upon receipt of the appeal, the clerk for the district in which the proceedings are filed shall compile a record of all documents reviewed by the medical director or associate medical director as scanned into the OWCA's electronic records system by the Medical Services Section. An electronic copy of the record shall be made available to all parties on request via email. A printed copy of the record shall be made available to all parties on request, and provided to any party on request at the district office's standard copy charge. R.S. 23:1317 shall apply to admissibility of the record.

4. Upon receipt of the LWC-WC-1008, the workers' compensation judge shall set the matter for an expedited hearing to be held not less than 15 nor more than 30 calendar days after the filing of the LWC-WC-1008. The district clerk shall issue service and citation and provide notice of the hearing date to the parties in accordance with law. In the absence of any new evidence to Subsections E and F, within 15 calendar days after the expedited hearing, the workers' compensation judge shall enter a judgment either approving or denying the disputed medical treatment pursuant to R.S. 23:1203.1 and the medical treatment schedule, and adjudicating any other issues incidental to the appeal.

L. Variance to Medical Treatment Schedule

1. Requests for authorization of medical care, services, and treatment that may vary from the medical treatment schedule must follow the same prior authorization process established for all other requests for medical care, services, and treatment that require prior authorization. If a request is denied or approved with modification and the health care provider or claimant determines to seek a variance from the medical director, then a LWC-WC-1009 shall be filed as provided in Subsection J of this Section. The health care provider, employee, or employee's attorney filing the LWC-WC-1009 shall also provide any other evidence supporting the position of the health care provider or the employee demonstrating by a preponderance of scientific medical evidence that a variance from the medical treatment schedule is reasonably required to cure or relieve the claimant from the effects of the injury or occupational disease given the circumstances.

L.2.- O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), repromulgated LR 18:257 (March 1992), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 38:1030 (April 2012), repromulgated LR 38:1287 (May 2012), amended LR 38:3255 (December 2012), LR 40:1163 (June 2014), LR 43:

§2718. Utilization Review Forms

A. LWC Form 1010—Request of Authorization/Carrier or Self-Insured Employer Response

LWC FORM 1010 - REQUEST OF AUTHORIZATION/CARRIER OR SELF INSURED EMPLOYER RESPONSE			
PLEASE PRINT OR TYPE			
SECTION 1. IDENTIFYING INFORMATION - To Be Filled Out By Health Care Provider			
P A T I E N T	Last Name: First: Middle:		Street Address, City, State, Zip:
	Last 4 Digits of Social Security Number:	Date of Birth:	Phone Number: Date of Injury:
	Employers Name:		Street Address, City, State, Zip: Phone Number:
C A R R I E R	Name:		Adjuster: Claim Number (if known):
	Street Address, City, State Zip:		Email Address: Phone Number: Fax Number:
SECTION 2. REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider			
P R O V I D E R	Requesting Health Care Provider:		Phone Number: Fax Number:
	Street Address, City, State Zip:		Email:
	Diagnosis:		CPT/DRG Code: ICD/DMS Code:
	Requested Treatment or Testing (Attach Supplement If Needed):		
	Reason for Treatment or Testing (Attach Supplement If Needed):		
INFORMATION REQUIRED BY RULE TO BE INCLUDED WITH REQUEST FOR AUTHORIZATION - To Be Filled Out By Health Care Provider (Following is the required minimum information for Request of Authorization (LAC 40:2715 (C))			
P R O V I D E R	<input type="checkbox"/> History provided to the level of condition and as provided by Medical Treatment Schedule		
	<input type="checkbox"/> Physical Findings/Clinical Tests		
	<input type="checkbox"/> Documented functional improvements from prior treatment		
	<input type="checkbox"/> Test/imaging results		
	<input type="checkbox"/> Treatment Plan including services being requested along with the frequency and duration		
	I hereby certify that this completed form and above required information was		<input type="checkbox"/> Faxed to the Carrier/Self Insured Employer on this the _____ day of _____, _____
		<input type="checkbox"/> Emailed (day) (month) (year)	
Signature of Health Care Provider:		Printed Name:	
SECTION 3. RESPONSE OF CARRIER/SELF INSURED EMPLOYER FOR AUTHORIZATION (Check appropriate box below and return to requesting Health Care Provider, Employee and Employee's Attorney as provided by rule)			
C A R R I E R	<input type="checkbox"/> The requested Treatment or Testing is approved		
	<input type="checkbox"/> The requested Treatment or Testing is approved with modifications (Attach summary of reasons and explanation of any modifications)		
	<input type="checkbox"/> The requested Treatment or Testing is denied because		
	<input type="checkbox"/> Not in accordance with Medical Treatment Schedule or R.S.23:1203.1(D) (Attach summary of reasons)		
	<input type="checkbox"/> The request, or a portion thereof, is not related to the on-the-job injury		
	<input type="checkbox"/> The claim is being denied as non-compensable		
	<input type="checkbox"/> Other (Attach brief explanation)		
I hereby certify that this response of Carrier/Self Insured Employer for Authorization was		<input type="checkbox"/> Faxed to the Health Care Provider (and to the Attorney of Claimant if one exists, if denied or approved with modification) on this the _____ day of _____, _____	
		<input type="checkbox"/> Emailed (day) (month) (year)	
Signature of Carrier/Self Insured Employer:		Printed Name:	
<input type="checkbox"/> The prior denied or approved with modification request is now approved			
I hereby certify that this response of Carrier/Self Insured Employer for Authorization was		<input type="checkbox"/> Faxed to the Health Care Provider and Attorney of Claimant if one exists on this the _____ day of _____, _____	
		<input type="checkbox"/> Emailed (day) (month) (year)	
Signature of Carrier/Self Insured Employer:		Printed Name:	

SECTION 4. REMAND/NEW EVIDENCE			
Submission by (check one):			
<input type="checkbox"/> Employee		<input type="checkbox"/> Employee's Attorney	
<input type="checkbox"/> Health Care Provider			
If applicable:			
<input type="checkbox"/> Pending 1009: MGD ____ - ____		<input type="checkbox"/> Pending 1008: Docket # _____	
Brief Description of New Evidence:			
I hereby certify that the Remand/New Evidence record(s) and accompanying 1010 Form was		<input type="checkbox"/> Faxed	to the Health Care Provider/Carrier/Self-Insured Employer on this the
			_____ day of _____, _____
		<input type="checkbox"/> Emailed	(day) (month) (year)
Signature of Submitting Party:		Printed Name:	
Street Address, City, State Zip:		Email Address:	Phone Number: Fax Number:
SECTION 5. RESPONSE OF CARRIER/SELF INSURED EMPLOYER FOR AUTHORIZATION			
(Check appropriate box below and return to requesting Health Care Provider, Employee and Employee's Attorney as provided by rule)			
<input type="checkbox"/> The requested Treatment or Testing is approved			
<input type="checkbox"/> The requested Treatment or Testing is approved with modifications (Attach summary of reasons and explanation of any modifications)			
<input type="checkbox"/> The requested Treatment or Testing is denied because			
<input type="checkbox"/> Not in accordance with Medical Treatment Schedule or R.S.23:1203.1(D) (Attach summary of reasons)			
<input type="checkbox"/> The request, or a portion thereof, is not related to the on-the-job injury			
<input type="checkbox"/> The claim is being denied as non-compensable			
<input type="checkbox"/> Other (Attach brief explanation)			
I hereby certify that this response of Carrier/Self Insured Employer for Authorization was		<input type="checkbox"/> Faxed	to the Health Care Provider (and to the Attorney of Claimant if one exists, if denied or approved with modification) on this the
			_____ day of _____, _____
		<input type="checkbox"/> Emailed	(day) (month) (year)
Signature of Carrier/Self Insured Employer:		Printed Name:	

AUTHORITY NOTE: Promulgated in accordance with RS 23:1203.1.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Workers' Compensation Administration, LR 38:1037 (April 2012), amended LR 38:3255 (December 2012), LR 42:286 (February 2016), LR 43:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to implement the rule.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to the Director, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802, and should be received on or before March 10, 2017.

Public Hearing

A public hearing will be held on March 31, 2017, at 9:30 a.m., at the LaSalle Building, 617 North Third Street, First Floor, in the LaBelle Hearing Room in Baton Rouge, LA. The public is invited to attend.

Ava Dejoie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Treatment Guidelines Upper and Lower Extremities Medical Treatment and Utilization Review

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Title 40 Labor and Employment, Part I Workers' Compensation Administration, Subpart 2 Medical Guidelines, Chapters 23 and 27 to update the Medical Treatment Guidelines. The proposed rule amends the following: (1) address concerns raised in the workers' compensation community; (2) clarify the process by which the medical treatment guidelines are implemented; and (3) make the rules easier to navigate as well as the process more user-friendly.

Besides the cost to publish in the *Louisiana Register*, the proposed rules will not require any additional expenditure by

the Office of Workers' Compensation (OWCA) nor will the proposed rules result in any savings to OWCA. Likewise, it is not anticipated that the proposed rules will result in any costs or savings to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule 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)

OWCA does not anticipate that the proposed rule will produce a direct economic benefit to affected persons. The agency anticipates the proposed rule will provide an indirect benefit to all stakeholders within the workers' compensation community as a result of making the rules clearer and easier to navigate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Sheral Kellar
Director
1702#063

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Plumbing Board**

Plumbers—Introductory Information; Licenses;
Revocation and Related Administration Proceedings;
Continuing Professional Education Programs
(LAC 46:LV.101, 301, 303, 304, 309, 310, 311, 312,
313, 314, 315, 316, 508, 901, 1001, 1003, 1005, and 1007)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Louisiana State Plumbing Board (board), hereby determines that the implementation of amendments to LAC 46:LV.101, 301, 303, 304, 310, 311, 312, 313, 314, 315, 316, 901, 1001, 1003, 1005, and 1007 and adoption of §§309 and 508 are necessary to be in compliance with recent legislative changes designated as Act No. 515 of 2016. The proposed Rule change to §§101, 301, 303, 309, 310, 312, 901 and 1001 establishes the designation of tradesman plumbers and will also provide licensing requirements and procedures relative to the tradesman plumber classification, effective January 1, 2017. The proposed Rule change to §508 establishes and maintains a registry of apprentice plumbers employed within the state of Louisiana. The addition of the tradesman plumber classification resulted in the insertion of a new Rule, causing a change in the Sections formerly numbered as §§307-313, as well as a change to cross-referencing of Sections throughout the rules. These adjustments will be effective upon final publication in the *Louisiana Register*. All currently stated rules of the board, unless amended herein, shall remain in full force and effect.

Please refer to the corresponding Emergency Rule printed in this edition of the *Louisiana Register* to view these amendments.

Family Impact Statement

1. Estimated effect on the stability of the family? There is no estimated effect on the stability of the family.

2. Estimated effect on the authority and rights of parents regarding the education and supervision of their children? There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated effect on the functioning of the family? There is no estimated effect on the functioning of the family.

4. Estimated effect on family earnings and family budget? There is no estimated effect on family earnings and family budget.

5. Estimated effect on the behavior and personal responsibility of children? There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule? There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed amended Rule will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed amended Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed amended Rule is not anticipated to have any impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Any interested person may submit written comments regarding the content of this proposed Rule change to Ashley Jones Tullier, Executive Director of the Board, 11304 Cloverdale Avenue, Baton Rouge, LA, no later than 5 p.m., March 20, 2017.

Ashley Jones Tullier
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Plumbers—Introductory Information;
Licenses; Revocation and Related Administration
Proceedings; Continuing Professional
Education Programs**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an increase in expenses of the State Plumbing Board as a result of the proposed rule establishing the category of Tradesman plumbers.

The rule establishes a new classification of tradesman plumbers and provides examination, licensing, and continuing education requirements for these individuals as required by Act 515 of 2016. The law also requires the board to maintain a registry of apprentice plumbers in the state. The extent of the cost increases will be determined by the number of individuals

seeking to become licensed tradesman plumbers. The board projects increased operating costs of \$1,000 in FY 17, \$2,000 in FY 18, and \$3,000 in FY 19. The operational costs will cover the cost of materials needed to issue the licenses, such as paper, ink, and the licenses themselves. The board also anticipates professional services costs in FY 17 of \$5,000, which will cover the initial start up costs, including legal services and fees to implement the rule change, but these costs are expected to decrease to \$500 in FY 18 and FY 19. Anticipated costs will be paid through self-generated revenues from licensing and enforcement fees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase in revenues due to the creation of a new fee schedule for registered apprentice and tradesman plumbers. For FY 17 the board anticipates 150 new applications; 100 applicants will be seeking apprenticeship registration and 50 applicants seeking examination and licensing of a tradesman plumber. An initial registration fee of \$20 will be implemented for apprentices, which will generate revenues of \$2,000. The initial license fee for Tradesman plumbers will be \$40, which will generate an additional \$2,000. The total anticipated revenue collections for FY 17 is \$4,000. There are additional fees these individuals may be responsible for, such as examination fees for tradesman plumbers, fees for late payments, and renewal fees. In the subsequent fiscal years the board estimates an increase in revenues due to new and renewal applications. The estimated revenue collection for FY

18 is expected to be \$5,500. This revenue would come from 100 new applicants as well as 150 renewals. The anticipated revenue collection for FY 19 is \$7,500, which will come from 100 new applicants and 250 renewals.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensing and registration fees will have an annual impact on an estimated 150 - 350 individuals and/or their employing entities engaged in the business of plumbing to the extent apprentices register with the board, and individuals become licensed tradesman plumbers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Plumbing Board anticipates that the licensing of tradesman plumbers will enhance competition in the plumbing industry, as intended by Act 515 of 2016. Additionally, this new classification of plumbers, as well as codification of an apprentice plumber registry will increase employment opportunities in the plumbing industry. Also the board anticipates this rule will promote development of quality private sector training and certification programs.

Louis L. Robein
Board Attorney
1702#062

Evan Brasseaux
Staff Director
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Potpourri

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Division

Notice of Public Hearing

Substantive Changes to Proposed Rule AQ365
Emission Reduction Credits (ERC) from Mobile Sources
(LAC 33:III.603, 605, 606, 607, 611, 617 and 619)

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 the department is seeking to incorporate substantive changes to LAC 33:III.603, 605, 606, 607, 611, 617 and 619 (AQ365S), which were originally noticed as AQ365 in the August 20, 2016, issue of the *Louisiana Register*. (1702Pot 1)

The department has made the following substantive changes to address comments received on AQ365. These changes clarify that:

- minor stationary sources that operated under an air permit and submitted emissions inventories meeting the requirements of LAC 33:III.919 during the baseline period (but are not necessarily currently subject to LAC 33:III.919) may participate in the emissions banking program;
- exhaust control technologies may be installed in *or connected to* an engine's exhaust system;
- an existing engine may be replaced with a new *or remanufactured* engine certified to *or configured to meet* a more stringent set of emission standards;
- eligible on-road mobile sources must be part of a commercial, governmental, or institutional fleet;
- on-road mobile sources and nonroad engines must be no more than 20 years old and marine vessels must be no more than 40 years old in order to participate in the emissions banking program;
- eligible emission reduction projects must generate at least 0.5 tons of NO_x or VOC emission reduction credits (ERC);
- records of maintenance activities on a modified or substitute mobile source must be retained for the life of the source; and
- ERC cannot be generated by permanently removing a locomotive from Louisiana.

In the interest of clarity and transparency, the department is providing public notice and opportunity to comment on the proposed changes to the amendments of the regulations. The department is also providing an interim response to comments received on the initial regulation proposal.

A strikeout, underline, and shaded version of the proposed rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available at www.deq.louisiana.gov under Rules and Regulations.

The following changes are to be incorporated into the Notice of Intent:

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking

§603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in nonattainment areas may submit ERC applications for purposes of banking, provided the source was operating under an air permit and submitted emissions inventories meeting the requirements of LAC 33:III.919 during the baseline period. Sources located in EPA-designated attainment areas may not participate in the emissions banking program, except as specified in Subsection C of this Section.

B. - 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 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012), LR 41:2320 (November 2015), LR 43:

§611. Determination of Creditable Emission Reductions from Mobile Sources

A. - A.1. ...

2. Eligible emission reduction strategies include:

a. exhaust control technologies in which a pollution control device, such as an oxidation catalyst, is installed in or connected to an engine's exhaust system;

b. - c. ...

d. engine repowers in which an existing engine is replaced with a newer or remanufactured engine certified to or configured to meet a more stringent set of emission standards or otherwise powered with an alternative fuel;

e. ...

f. clean alternative fuel conversions in which a mobile source or engine is permanently altered to operate on alternative fuels such as propane, natural gas, alcohol, or electricity. The conversion system must be certified by EPA in order to ensure that the project is exempt from the tampering prohibition in section 203(a) of the Clean Air Act.

3. On-road mobile sources must be part of a commercial, governmental, or institutional fleet. Privately-owned vehicles operated primarily for personal use may not participate in the emissions banking program.

4. On-road mobile sources and nonroad engines must be no more than 20 years old and marine vessels must be no

more than 40 years old in order to participate in the emissions banking program.

5. Eligible emission reduction projects must generate at least 0.5 tons of NO_x or VOC ERC.

B. - C. ...

1. The owner or operator shall operate and maintain the modified or substitute mobile source in accordance with the manufacturer's emission-related operation and maintenance instructions. Records of maintenance activities shall be retained for the life of the source at a location approved by the department and made available for inspection upon request.

2. - 3.a. ...

b. Testing shall not be required:

i. if the modified mobile source must be re-certified with or configured to meet federal exhaust emission standards as a matter of federal law;

1.b.ii. - 4.b. ...

5. Repealed.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

§617. Procedures for Review and Approval of ERCs

A. - C.1. ...

2. Upon issuance of a permit that relies upon the use of approved ERCs as offsets, the department shall be responsible for recalculating the ERC balance for that entity and for providing that entity with an adjusted ERC certificate. In the case of a partial use of an ERC from an emission reduction project, the department shall issue a new certificate reflecting the available credits remaining. The remaining ERC(s) shall be reviewed again in accordance with LAC 33:III.607 or 611, as applicable, at the time a request is received to use the remaining portion.

C.3. - E. ...

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 20:878 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:304 (February 2002), amended by the Office of the Secretary, Legal Division, LR 43:

A public hearing on the substantive changes will be held on March 29, 2017, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and make 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.

All persons submitting written comments should reference the proposed regulation as AQ365S. Such comments must be received no later than March 29, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or e-mail at

deidra.johnson@la.gov. The comment period for the substantive changes ends on March 29, 2017. Copies of these substantive changes may be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ365S. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

AQ365S is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. 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; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

1702#017

POTPOURRI

Department of Health Board of Social Work Examiners

Public Hearing—Substantive Changes to Notice of Intent Practice Requirements, Social Work Relationships, Client Confidentiality, Definitions, Continuing Education Requirements, and Supervision
(LAC 46:XXV.111, 113, 115, 301, 317, 503, and 507)

The board published a Notice of Intent to amend its rules in the May 20, 2016, edition of the *Louisiana Register*. The notice solicited views, arguments, information, written comments and testimony. As a result of its consideration of the written comments and testimony received, the board proposes to amend §111.G.4, §113.B.3, §115.D.2, §301, §317, §503, and §507 of the proposed Rule amendments so that, as amended, these provisions will read as set forth below.

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held by the board on March 17, 2017, at 1 p.m. at the office of the Louisiana State Board of Social Work Examiners, 18550 Highland Road, Suite B, Baton Rouge, LA 70809.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Credentialed Social Workers

Chapter 1. Standards of Practice

§111. Practice Requirements

A. - G.3. ...

4. Social work students in field placement are specifically allowed to provide services under supervision. Social work supervisors who do cosign records shall indicate his/her supervisory function.

G.5. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:296 (February 2000), amended LR 37:2615 (September 2011), LR 43:

§113. Social Work Relationships

A. - B.2. ...

3. Sexual Intimacy or Contact with a Client, Supervisee or Student. A social worker shall not engage in or request sexual intimacy or contact as defined in §113.B.5, with a client, a client's spouse or former spouse, any member of the client's immediate family or with any person with whom the client has a sexual relationship. The prohibition of this rule extends to supervisees and students during such times and under such circumstances where the social worker is in a supervisory or teaching relationship. This rule also expressly prohibits social workers from engaging in any behavior which a reasonable person would find sexually stimulating, seductive or sexually demeaning when such behavior is either directed toward or exhibited in the presence of any person with whom sexual contact is otherwise prohibited by this rule. Social workers shall not sexually harass a client, colleague, fellow workers, supervisee or student.

4. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:297 (February 2000), amended LR 29:2381 (November 2003), LR 34:246 (February 2008), LR 43:

§115. Client Confidentiality

A - D.1. ...

2. where communications to the social worker reveal abuse or neglect of children and elders which impose an obligation on social workers as mandatory reporters under the Louisiana Children's Code Article 609, R.S. 14:403, and R.S. 14:403.2. A social worker shall not be considered a mandatory reporter in the limited circumstances specified in Children's Code Article 603(b).

D.3. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:298 (February 2000), LR 43:

Chapter 3. General Provisions

§301. Definitions

* * *

Electronic Social Work Practice—use of computers (including the internet, social media, on line chat, text, and email) and other electronic means (such as smartphones, landline telephones and video technology) to:

1. provide information to the public;
2. deliver social work services to clients;
3. communicate with clients;
4. manage confidential information and case records;
5. store and access information about clients; and
6. arrange payment for professional services.

* * *

In-Person—interactions in which the social worker and the client are in the same physical space and does not include interactions that may occur through the use of technology.

* * *

Remote—provision of social work services where the social worker is not physically located at the site where the services are received. The distance between the social worker and the recipient of services is not a consideration.

Sexual Harassment—sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000), amended LR 34:247 (February 2008), LR 37:2616 (September 2011), LR 43:

§317. Continuing Education Requirements

A - F.2. ...

3. The board may grant a social worker approval to complete more than 10 hours of continuing education via distance learning in the case of debilitating, disabling, or other medical conditions making travel impossible or extremely inconvenient. The licensee shall provide satisfactory documentation for the grant of approval.

4. The board may grant a social worker approval to complete more than 10 hours of continuing education via distance learning if the social worker resides out of United States territories where no in-person continuing education is available. The licensee shall provide satisfactory documentation for the grant of approval.

G - L. ...

M. The following learning forums are approved for continuing education and must contain content applicable to social work practice:

1. - 11. ...

12. Reading books or journal articles with content applicable to social work and followed by a face-to-face discussion as part of an organized workshop. A maximum of one hour credit can be obtained from reading a book if the social worker, signs a statement that he/she read the book, attends the discussion about the book, and passes the pre-test administered prior to the face-to-face discussion with at least 70 percent. The one hour credit for reading is considered distance learning. Credit for the discussion counts as actual time spent in the discussion and counts as in-person continuing education.

13. Viewing documentary film with content applicable to social work practice not deemed for general public and followed by a face-to-face discussion. Film shall be pre-approved by LABSWE and must rate a 10 or higher on the Guide for Assessment of Continuing Education to qualify for continuing education credit.

14. social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently independent study must receive pre-approval from the board.

N. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C) and (G) and 37:2714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:305 (February 2000), amended LR 29:2385 (November 2003), LR 34:248 (February 2008), LR 37:2618 (September 2011), LR 43:

Chapter 5. Minimum Supervision Requirements

§503. LMSWs Seeking the LCSW Credential

A. - B. ...

C. LMSWs seeking the LCSW credential must complete a minimum of 5,760 hours of postgraduate social work practice and at least 3,840 hours of that postgraduate social work practice must be under the supervision of a board approved clinical supervisor (BACS).

D. The requirement for supervision is at least 2 hours of face-to-face supervision with a BACS during every 80 hours increment of postgraduate social work practice. This hourly supervision requirement applies to each consecutive increment of 80 hours of social work practice. Postgraduate social work practice which exceeds 80 consecutive hours of practice without at least two hours of face-to-face BACS supervision will not be credited to the 3,840 hours of supervised practice. To calculate supervision, take the number of hours worked in a given time, divide by 40 and that will equal the face-to-face supervision required for the time worked.

E. Face-to-face supervision for licensure must total at least 96 hours.

F. A minimum of 1 session per month is required. Supervision segments of no fewer than 30 minutes and no longer than 2 hours per day will be counted toward meeting the supervision requirement.

G. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two hours per group. No more than five supervisees may be involved in supervision groups.

H. School social workers shall count hours of postgraduate social work practice and supervision that occurs when they are employed in a social work position.

I. The supervisee and supervisor shall keep accurate records of both the dates of supervision sessions and the time spent in supervision. This information shall be submitted to the board office on the supervision form entitled *Record of Supervision*.

J. The supervisor has a professional responsibility to honor his/her commitment to supervise responsibly, which includes submitting forms on a timely basis. Should the supervisor fail to submit forms appropriately, and on a timely basis, the board reserves the right to withdraw the BACS designation from the supervisor.

K. A supervisory record shall include:

1. supervision agreement and plan for supervision;
2. learning assessment of supervisee;
3. record of all supervisory sessions, and any canceled or missed appointments;
4. overview of cases discussed, as well as significant decisions made;
5. any ethical concerns;
6. significant problems arising in supervision, and how they were resolved;
7. memos and correspondence;
8. for all above data, dates completed and person completing the item.

L. To register her/his intent to initiate supervision, the LMSW must submit the completed registration of supervision form.

M. The individual completing supervision shall:

1. Use the following forms to submit their supervision to the board office:
 - a. supervision agreement/plan of supervision;
 - b. employment verification;
 - c. record of supervision;
 - d. evaluation of supervision;
 - e. professional experience verification record;
2. Submit legible forms. Preferably, material on forms should be typed, but if not typed, the forms must be printed neatly and legibly. Forms which are not legible will be returned.
3. Submit original, unaltered supervision forms to the board office. Copies, faxes, or forms with any alterations (such as white-out or mark-outs) will not be accepted.

N. The original Supervision Agreement/Plan of Supervision must be submitted to the board office within 60 days of the first supervision session. A Supervision Agreement shall be submitted on each supervision experience, such as a change in employment and/or a change in supervisor.

O. The supervision agreement/plan of supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor. The supervisee and supervisor will be mailed a letter confirming board approval of the supervision agreement/plan of supervision, as well as the beginning date of supervision credit.

P. When supervision is provided to a LMSW by a LCSW-BACS supervisor, not an agency employee, social work ethics require that the LCSW-BACS take responsibility for securing agency agreement to the plan of supervision, whether the fee for supervision is paid by the agency or the supervisee.

1. The LCSW-BACS is responsible for clarifying with the agency administration, the supervisory role responsibilities and the content of supervision.

2. Under such a plan the supervisee's written evaluation is made available to the agency if the agency is paying for the supervision. If the supervisee is paying the fee, the evaluation is the supervisee's property.

Q. The supervisee shall submit an Employment Verification Form from each place of social work employment after she/he receives the MSW degree. The form shall be completed by the employer, not the supervisor (unless the employer and the supervisor are one and the same).

R. An evaluation of supervision form shall be submitted to the board office at the end of the supervisory period. Sometimes it is necessary for a supervisor to discontinue supervising a LMSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an evaluation of supervision form.

S. The Professional Experience Verification Record shall be submitted to the board office from each place of employment to verify dates employed and the hours of social work practice completed during the time employed. The Professional Experience Verification Record shall be completed by the employer(s).

T. If the LMSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

1. the supervisor has completed the authorized forms of the Louisiana State Board of Social Work Examiners; and
2. the supervisor is licensed at the time of supervision at a level substantially equivalent to a LCSW-BACS in the other state and submits the license verification of out-of-state supervisor form (available from board office).

U. The board's publication, *Supervision for Professional Development and Public Protection: A Guide*, provides more information relative to supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 34:1402 (July 2008), LR 37:2620 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014), LR 43:

§507. Board-Approved Clinical Supervisor

A. - B.3. ...

4. If LCSW loses BACS because of missed training, he/she must cease supervising LMSWs for LCSW.

C. To reinstate BACS designation, the social worker must:

1. complete 3 hours of continuing education in the area of clinical supervision;
2. complete a board orientation workshop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000), amended LR 29:2388 (November 2003), LR 34:249 (February 2008), LR 43:

§115. Client Confidentiality

A - D.1. ...

2. where communications to the social worker reveal abuse or neglect of children and elders which impose an obligation on social workers as mandatory reporters under the Louisiana Children's Code Article 609, R.S. 14:403, and R.S. 14:403.2; this excludes social workers on legal defense team for juveniles as defined by Article 603(b) of the Louisiana Children's Code;

D.3. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:298 (February 2000), LR 43:

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1. provide information to the public;
2. deliver social work services to clients;
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4. manage confidential information and case records;
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* * *

In-Person—interactions in which the social worker and the client are in the same physical space and does not include interactions that may occur through the use of technology.

* * *

Remote—provision of a service that is received at a different site from where the social worker is physically located. Remote includes no consideration related to distance and may refer to a site near to or far from the social worker.

Sexual harassment—sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000), amended LR 34:247 (February 2008), LR 37:2616 (September 2011), LR 43:

§317. Continuing Education Requirements

A - F.2. ...

3. The board may grant a social worker approval to complete more than 10 hours of continuing education via distance learning in the case of catastrophic medical condition. The licensee shall provide sufficient documentation for such an action.

4. The board may grant a social worker approval to complete more than 10 hours of continuing education via distance learning if the social worker resides out of United States territories where no in-person continuing education is available. The licensee shall provide sufficient documentation for such an action.

G - L. ...

M. The following learning forums are approved for continuing education and must contain content applicable to social work practice:

1. - 11. ...

12. Reading books or journal articles with content applicable to social work and followed by a face-to-face discussion as part of an organized workshop. A maximum of one hour credit can be obtained from reading a book if the social worker, signs a statement that he/she read the book, attends the discussion about the book, and passes the pre-test administered prior to the face-to-face discussion with at least 70 percent. The one hour credit for reading is considered distance learning. Credit for the discussion counts as actual time spent in the discussion and counts as in-person continuing education.

13. Viewing documentary film with content applicable to social work practice not deemed for general public and followed by a face-to-face discussion. Film shall be pre-approved by LABSWE and must rate a 10 or higher on the Guide for Assessment of Continuing Education to qualify for continuing education credit.

14. social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently independent study must receive pre-approval from the board.

N. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705(C) and (G) and 37:2714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:305 (February 2000), amended LR 29:2385 (November 2003), LR 34:248 (February 2008), LR 37:2618 (September 2011), LR 43:

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D. The requirement for supervision is at least 2 hours of face-to-face supervision with a BACS during every 80 hours increment of postgraduate social work practice. This hourly supervision requirement applies to each consecutive increment of 80 hours of social work practice. Postgraduate social work practice which exceeds 80 consecutive hours of practice without at least two hours of face-to-face BACS supervision will not be credited to the 3,840 hours of supervised practice.

E. Face-to-face supervision for licensure must total at least 96 hours.

F. A minimum of 1 session per month is required. Supervision segments of no fewer than 30 minutes and no longer than 2 hours per day will be counted toward meeting the supervision requirement.

G. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two hours per group. No more than five supervisees may be involved in supervision groups.

H. School social workers shall count hours of postgraduate social work practice and supervision that occurs when they are employed in a social work position.

I. The supervisee and supervisor shall keep accurate records of both the dates of supervision sessions and the time spent in supervision. This information shall be submitted to the board office on the supervision form entitled *Record of Supervision*.

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K. A supervisory record shall include:

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6. significant problems arising in supervision, and how they were resolved;
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2. Submit legible forms. Preferably, material on forms should be typed, but if not typed, the forms must be printed neatly and legibly. Forms which are not legible will be returned.

3. Submit original, unaltered supervision forms to the board office. Copies, faxes, or forms with any alterations (such as white-out or mark-outs) will not be accepted.

N. The original Supervision Agreement/Plan of Supervision must be submitted to the board office within 60 days of the first supervision session. A Supervision Agreement shall be submitted on each supervision experience, such as a change in employment and/or a change in supervisor.

O. The supervision agreement/plan of supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor. The supervisee and supervisor will be mailed a letter confirming board approval of the supervision agreement/plan of supervision, as well as the beginning date of supervision credit.

P. When supervision is provided to a LMSW by a LCSW-BACS supervisor, not an agency employee, social work ethics require that the LCSW-BACS take responsibility for securing agency agreement to the plan of supervision, whether the fee for supervision is paid by the agency or the supervisee.

1. The LCSW-BACS is responsible for clarifying with the agency administration, the supervisory role responsibilities and the content of supervision.

2. Under such a plan the supervisee's written evaluation is made available to the agency if the agency is paying for the supervision. If the supervisee is paying the fee, the evaluation is the supervisee's property.

Q. The supervisee shall submit an Employment Verification Form from each place of social work employment after she/he receives the MSW degree. The form shall be completed by the employer, not the supervisor (unless the employer and the supervisor are one and the same).

R. An evaluation of supervision form shall be submitted to the board office at the end of the supervisory period. Sometimes it is necessary for a supervisor to discontinue supervising a LMSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an evaluation of supervision form.

S. The Professional Experience Verification Record shall be submitted to the board office from each place of employment to verify dates employed and the hours of social work practice completed during the time employed. The professional experience verification record shall be completed by the employer(s).

T. If the LMSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

1. the supervisor has completed the authorized forms of the Louisiana State Board of Social Work Examiners; and
2. the supervisor is licensed at the time of supervision at a level substantially equivalent to a LCSW-BACS in the other state and submits the license verification of out-of-state supervisor form (available from board office).

U. The board's publication, *Supervision for Professional Development and Public Protection: A Guide*, provides more information relative to supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 34:1402 (July 2008), LR 37:2620 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014), LR 43:

§507. Board-Approved Clinical Supervisor

A. - B.3. ...

4. If LCSW loses BACS because of missed training, he/she must cease supervising LMSWs for LCSW.

C. To reinstate BACS designation, the social worker must:

1. complete 3 hours of continuing education in the area of clinical supervision;
2. complete a board orientation workshop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000), amended LR 29:2388 (November 2003), LR 34:249 (February 2008), LR 43:

Emily DeAngelo
Administrator

1702#035

POTPOURRI

**Department of Health
Board of Veterinary Medicine**

Fee Schedule

Following are the fees that are charged by the Louisiana Board of Veterinary Medicine:

Doctors of Veterinary Medicine:

Annual Active Renewal Fee	\$250	DVM Original License Fee	\$250
Annual Inactive Renewal Fee	\$125	Initial Application Fee	\$100
Renewal Late Fee	\$150	State Board Examination Fee	\$200
Renewal Late CE Fee	\$25	Duplicate Wall Certificate Fee	\$25

Registered Veterinary Technicians:

Annual Renewal Fee	\$30	Original Certification Fee	\$30
Late Renewal Fee	\$20	Initial Application Fee	\$25

Certified Animal Euthanasia Technicians:

Annual Renewal Fee	\$50	Examination Fee	\$50
Late Renewal Fee	\$25	Original Certification Fee	\$50
Course Fee	\$80	Initial Application Fee	\$25

Registered Equine Dentists:

Original Registration Fee	\$200	Late Renewal Fee	\$100
Annual Renewal Fee	\$125	Initial Application Fee	\$100

Wendy D. Parrish
Executive Director

1702#003

POTPOURRI

**Department of Natural Resources
Office of Conservation**

**Advanced Notice of Rulemaking and Solicitation of
Comments—Transferable Plugging Credits in lieu of Bond
with Security
(LAC 43:XIX.Subpart 1)**

In order to implement Act 526 of the 2016 Regular Session of the Louisiana Legislature, the Department of Natural Resources, Office of Conservation is requesting comments on establishing a system of transferable plugging credits in lieu of bond with security, LAC 43:XIX.Subpart 1.

Specifically, Act 526 authorizes the Commissioner to establish a program to allow for transferrable plugging credits in lieu of the bond with security in order to promote the plugging of orphaned oilfield sites and oilfield sites that have been inactive for at least five years. A plugging credit shall be issued for the plugging of orphaned oilfield sites and oilfield sites that have been inactive for at least five years, with the specific requirements and procedures for issuance, transfer, and acceptance of such credits to be developed by the commissioner. The regulations shall, at a minimum, provide criteria under which plugging credits may be earned, and require approval by the commissioner for the earning, using, banking, or selling of the plugging credits.

The commissioner shall make, after notice and public hearings as provided in this Chapter, any rules, regulations, and orders that are necessary to require reasonable bond with security for the performance of the duty to plug each dry and abandoned well and the closure and to perform the site cleanup required. The rules, regulations, and orders may classify based on location of well and shall provide for the following exceptions from the reasonable bond and security requirement.

1. Wells exempt prior to September 1, 2015, that remain with the operator of record as of that date.
2. Wells utilizing plugging credits pursuant to the program herein created.
3. Wells that were orphaned but subsequently transferred to another operator.

Written comments concerning the proposed program are due no later than 4 p.m., March 20, 2017, and should be submitted to F. Jonathan Rice, Office of Conservation, Executive Division, P.O. Box 94275-Capitol Station, Baton Rouge, LA 70804-9275 or by fax to (225) 242-3663. Persons commenting should reference this document as CON ENG 17-01.

Richard P. Ieyoub
Commissioner

1702#024

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
Nora Lee Clark	Monroe	M	Clark 80	001	170499
Nora Lee Clark	Monroe	M	Clark 80	002	170500
Nora Lee Clark	Monroe	M	Clark 80	003	170501
W.C. Fairchild and Associates	Fontenot	L	W Langley	001	75467
Del Oil and Gas Corp.	Bully Camp	L	Cyclanina SU D; Frank Ducos	001	62174
Reed Crude Oil Company	Jennings	L	Heywood	010	19009
Cortex Energy, Inc.	Fields	L	Sonat Minerals Inc 22	001	212947
Cortex Energy, Inc.	Fields	L	Sonat Minerals Inc 22	002	215060
Cortex Energy, Inc.	Fields	L	S M L I 28	001	215914
Cortex Energy, Inc.	Fields	L	Boise Southern Company	001	234301
Cortex Energy, Inc.	Fields	L	Boise Southern Company SWD	001	973302
Cortex Energy, Inc.	Neale	L	Musser-Davis C	001	159760

Operator	Field	District	Well Name	Well Number	Serial Number
Cortex Energy, Inc.	Neale	L	Musser-Davis C SWD	003	190739
Cortex Energy, Inc.	Neale	L	Musser-Davis C	004	207356
Cortex Energy, Inc.	Neale	L	Musser-Davis C	005	244272
Cortex Energy, Inc.	Pleasant Hill	S	Timberstar 23	001	236109
Olin Oil and Gas Corporation	Wildcat-NO LA Monroe Dist	M	LA Delta Corp	004	71999

Richard P. Ieyoub
Commissioner

1702#028

POTPOURRI

**Department of Public Safety and Corrections
Uniform Construction Code Council**

Legal Notice—Public Hearing
Uniform Construction Code
(LAC 17:I.Chapter 1)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) published a Notice of Intent to amend its rules in the January 20, 2017 edition of the *Louisiana Register*. The notice solicited written comments and a request for a public hearing.

In accordance with R.S. 49:953(A)(2)(a)-(b), a public hearing will be held on March 1, 2017 at 1:30 p.m. at the Office of the State Fire Marshal, 8181 Independence Blvd, Baton Rouge, LA 70806.

All interested parties will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing.

Lt. Col. Jason Starnes
Chief Administrative Officer

1702#030

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