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**V. POTPOURRI**

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# Executive Orders

## EXECUTIVE ORDER BJ 13-11

### Bond Allocation—Louisiana Public Facilities Authority

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

- (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits (hereafter "Ceiling");
- (2) the procedure for obtaining an allocation of bonds under the Ceiling; and
- (3) a system of central record keeping for such allocations; and

WHEREAS, The Louisiana Public Facilities Authority has applied for an allocation of the 2013 Ceiling to be used in connection with the financing by Sheppard Park II, LP for the acquisition and renovation of an existing 80-unit elderly affordable housing property located in Minden, Louisiana, of which 40% of the total units will be reserved for occupancy by housing-eligible tenants at or below 60% area median income (the "Project"); and

NOW THEREFORE, I, BOBBY JINDAL, 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: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2013 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$5,000,000	Louisiana Public Facilities Authority	Sheppard Park Apartments Project

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2013, provided that such bonds are delivered to the initial purchasers thereof on or before October 20, 2013.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.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 Louisiana, at the Capitol, in the city of Baton Rouge, on this 23rd day of July, 2013.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1308#099

## EXECUTIVE ORDER BJ 13-12

### Flags at Half Staff—In Memoriam of Lindy Boggs

WHEREAS, the Honorable Lindy Boggs, who represented the State in the U.S. House of Representatives from 1973 through 1990, died on Saturday, July 27, 2013, at the age of 97;

WHEREAS, Lindy Boggs was born in Pointe Coupee Parish in 1916 and became the first woman elected to the U.S. House of Representatives from the State of Louisiana, where she served nine terms;

WHEREAS, while a member of Congress, she co-founded the Congressional Woman's Caucus and became the first woman to preside over a national political convention when she chaired the 1976 Democratic National Convention;

WHEREAS, after leaving Congress and at the age of 81, she was appointed the first female U.S. Ambassador to the Vatican where she served from 1997 to 2001;

WHEREAS, Lindy Boggs lived a life of service, carrying on for those who couldn't and speaking up for those who didn't have a voice in the halls of Congress;

WHEREAS, through her lifetime of service to the State of Louisiana and our Nation, she worked to better the lives of citizens of this State and represent our Nation abroad at the national and international level;

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

SECTION 1: As an expression of respect of the citizens of the State of Louisiana for Lindy Boggs, the flags of the United States and the State of Louisiana shall be flown at half staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Friday, August 2, 2013.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 29th day of July, 2013.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1308#100

# Emergency Rules

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Eligibility (LAC 28:IV.1805)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act (R.S. 49:953(B)) to amend and repromulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797.D(2)).

This rulemaking amends Section 1805 of LASFAC's Scholarship/Grants rules for the Chafee Educational and Training Voucher Program to provide that a student must be ages 16-21 to be eligible for the program.

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

This Declaration of Emergency is effective July 17, 2013, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG14148E)

#### Title 28

#### EDUCATION

#### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

#### Chapter 18. Chafee Educational and Training Voucher Program

#### §1805. Eligibility

A. To establish eligibility, a student must:

1. be ages 16 to 21, except that a student who was participating in the Chafee ETV Program at age 21 may continue to receive ETVs until he attains the age of 23; and
2. be in the foster care system, or aged out of the foster care system, or was under legal guardianship, or was in the foster care system or under legal guardianship and was adopted after age 16; and
3. be enrolled in postsecondary education; and
4. annually complete the free application for federal student aid.

B. – B.2....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2548 (November 2010), amended LR 39:

George Badge Eldredge  
General Counsel

1308#010

## DECLARATION OF EMERGENCY

### Office of the Governor Motor Vehicle Commission

General Provisions

(LAC 46:V.101, 1307, 1309, 1707, and 1901)

The Louisiana Motor Vehicle Commission (the "commission") is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 32:1251 et seq., adopts the following Emergency Rule effective July 15, 2013 and it shall remain in effect for 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana Motor Vehicle Commission finds it necessary to adopt this Rule to further implement the provisions of R.S. 32:1252(l) which amends the definition of an all-terrain vehicle and codifies the agency's policy of requiring a manufacturer's certificate of origin in the licensing process. In §1307 the following language is deleted "with a maximum of six vehicles per licensee, per display." This deletion makes clear the authority of the executive director to approve off-site displays and is consistent with similar provisions in the rule. The requirements for a manufacturer's motor vehicle display are set forth in §1309. This rule makes no change but codifies the agency's policy in effect for many years. The same is true of §1707 with regard to recreational product static off-site displays. The licensing requirements set forth in §1901 codify the agency's requirement that a manufacturer's certificate of origin accompany a license application and makes clear the requirements for the certificate.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part V. Automotive Industry

#### Subpart 1. Motor Vehicle Commission

#### Chapter 1. General Requirements [Formerly §707]

#### §101. Definitions

\* \* \*

*Manufacture's Certificate of Origin (MCO)*, a *Manufacture's Statement of Origin (MS)*, or a *Certificate of Origin*—a transitional ownership document issued by a manufacturer to a specific vehicle, or if a multi-stage vehicle, to a specific component of the vehicle and includes a *manufacturer's statement of origin (MSO)*, a *certificate of origin*, or similar term. A MCO is used to convey ownership from the manufacturer to a franchised dealer or distributor and from the franchised dealer to a purchaser.

\* \* \*

*VIN*—a series of Arabic numbers and Roman letters that are assigned to a vehicle for identification.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1545 (July 2010), LR 39:

### **Chapter 13. New Motor Vehicle Auto Shows: Offsite Displays**

#### **§1307. Static Offsite Displays**

A. - C. ...

D. The number of vehicles at any offsite display will be left to the discretion of the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2996 (October 2011), repromulgated LR 37:3261 (November 2011), amended LR 39:

#### **§1309. Manufacturer's Motor Vehicle Display**

A. A manufacturer's motor vehicle display is a vehicle display arranged by a licensed manufacturer, distributor or wholesaler to demonstrate its motor vehicles to the general public. A licensee's request to display motor vehicles must be received by the commission 30 days prior to the commencement of the display.

B. Each manufacturer's motor vehicle display will be limited to 10 days.

C. The number of motor vehicles at any manufacturer's motor vehicle display will be left to the discretion of the executive director.

D. The manufacturer vehicle display may be manned by product specialists, but no licensed motor vehicle dealer personnel will be allowed on the display site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:

### **Chapter 17. Recreational Product Static Offsite Displays; Offsite Expositions**

#### **§1707. Recreational Products Manufacturer's Display**

A. A recreational products manufacturer's display is a product display arranged by a licensed manufacturer, distributor or wholesaler to demonstrate its recreational products to the general public. A licensee's request to display recreational products must be received by the commission 30 days prior to the commencement of the display.

B. Each manufacturer's recreational products display will be limited to 10 days.

C. The number of recreational products at any manufacturer's display will be left to the discretion of the executive director.

D. The manufacturer's recreational products display may be manned by product specialists, but no licensed recreational products dealer personnel will be allowed on the display site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:

### **Chapter 19. Manufacturer, Distributor or Wholesaler License Application; Submission of MSO/MCO; Information Included**

#### **§1901. Manufacturer, Distributor or Wholesaler License Application; License Application**

A. An application for a license as a vehicle manufacturer, distributor or wholesaler required by R.S. 32:1254 must be accompanied by a manufacturer's statement/certificate of origin (MSO/MCO).

B. The MSO/MCO may be prepared at a factory, assembly plant, or business authorized by the manufacturer. Although variations exist, an MSO/MCO normally is: 7"x11" in size, on paper stock 60 pound offset or equivalent durability, and printed with security features that include:

1. sensitize security paper without added optical brighteners that will not fluoresce ultraviolet light;

2. engraved border and prismatic-rainbow printing with copy void pantograph (the word "void" appears when the document is copied); and

3. two complex colors (colors developed by using a mixture of two or more primary colors and black) and two security threads, with or without watermark, and/or intaglio print, with or without latent image, and/or security laminate.

C. The MSO/MCO must contain at least the following information:

1. first conveyance of the vehicle after its manufacture;

2. the model year;

3. make;

4. model, body style;

5. vehicle identification number or serial number if all-terrain (ATV) or off-road (ORV) vehicle;

6. an indication that the vehicle was not manufactured for road use, if applicable;

7. shipping weight or curb weight; and

8. the manufacturer's name and address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:

Lessie A. House  
Executive Director

1308#002

### **DECLARATION OF EMERGENCY**

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

Adult Dentures Program  
Reimbursement Rate Reduction  
(LAC 50:XXV.701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXV.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 14 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is

directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” 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.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 2).

Due to a budgetary shortfall in state fiscal year 2014, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$6,576 for state fiscal year 2013-2014.

Effective August 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXV. Adult Dentures**

#### **Chapter 7. Reimbursement**

#### **§701. Fees**

A. - C. ...

D. Effective for dates of service on or after August 1, 2013, the reimbursement for adult denture services shall be reduced by 1.5 percent of the fee amounts on file as of July 31, 2013.

1. Removable prosthodontics shall be excluded from the August 1, 2013 reimbursement rate reduction.

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 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:316 (February 2013), LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#015

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Bureau of Health Services Financing and Office of Behavioral Health**

Behavioral Health Services  
Statewide Management Organization  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:XXXIII.103)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend LAC 50:XXXIII.103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Louisiana Medicaid Program to provide services through the utilization of a statewide management organization that is responsible for the necessary administrative and operational functions to ensure adequate coordination and delivery of behavioral health services (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the February 2012 Rule in order to include the administration of behavioral health services covered under the LaCHIP affordable plan (phase 5) (*Louisiana Register*, Volume 38, Number 12). LaCHIP Affordable Plan benefits, including behavioral health services, were administered by the Office of Group Benefits. The administration of these services was transferred to the statewide management organization under the Louisiana Behavioral Health Partnership. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective August 31, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing behavioral health services coordinated by the statewide management organization to include recipients covered under the LaCHIP Affordable Plan.



**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXXIII. Behavioral Health Services**

**Subpart 1. Statewide Management Organization**

**Chapter 1. General Provisions**

**§103. Recipient Participation**

A. The following Medicaid recipients shall be mandatory participants in the coordinated behavioral health system of care:

- 1. - 6. ...
- 7. Title XXI SCHIP populations, including:
  - a. LaCHIP phases 1-3; and
  - b. LaCHIP Affordable Plan (phase 5).

B. ...

C. Notwithstanding the provisions of §103.A above, the following Medicaid recipients are excluded from enrollment in the PIHP/SMO:

- 1. - 7. ...
- 8. recipients who receive services through the Program of All-Inclusive Care for the Elderly (PACE);
- 9. recipients enrolled in the Low Income Subsidy Program;
- 10. participants in the take charge family planning waiver; and
- 11. recipients enrolled in the LaMOMS Program.
- 12. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#072

**DECLARATION OF EMERGENCY**

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

Behavioral Health Services—Supplemental Payments  
(LAC 50:XXXIII.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopts LAC 50:XXXIII.Chapter 161 in the Medical Assistance Program as authorized by R.S. 36:254 and

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program which provides coverage of behavioral health services to children and adults through the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing behavioral health services in order to establish supplemental Medicaid payments for state-owned and operated behavioral health providers (*Louisiana Register*, Volume 39, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and to ensure recipient access to behavioral health services.

Effective September 19, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopt provisions to establish supplemental Medicaid payments for state-owned and operated behavioral health providers.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXXIII. Behavioral Health Services**

**Subpart 17. Supplemental Payments**

**Chapter 161. General Provisions**

**§16101. Qualifying Criteria**

A. Effective for dates of service on or after January 20, 2013, providers of behavioral health services may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the behavioral health provider must be:

- 1. licensed as necessary by the state of Louisiana;
- 2. enrolled as a Medicaid provider; and
- 3. a government-owned and operated entity or a quasi-governmental entity.

B. Providers of the following services shall be eligible to receive supplemental payments:

- 1. providers furnishing services through a statewide management organization;
- 2. children’s mental health services;
- 3. behavioral health services;
- 4. home and community-based waiver services;
- 5. psychiatric residential treatment facility services;
- 6. therapeutic group home services;
- 7. substance abuse services; and
- 8. local government juvenile justice programs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

**§16103. Payment Methodology**

A. The supplemental payment shall be calculated in a manner that will bring payments for these services up to the community rate level.

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

B. The behavioral health provider shall periodically furnish satisfactory data for calculating the community rate as requested by the department.

C. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the behavioral health provider. 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. 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.

1. The Medicare to community rate conversion factor shall be recalculated at least every three years.

D. The supplemental payments shall be made on a quarterly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#073

**DECLARATION OF EMERGENCY**

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

Coordinated Care Network—LACHIP Affordable Plan  
Benefits Administration (LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve performance and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the coordinated care networks in order to include health care services provided to LaCHIP Affordable Plan recipients in the BAYOU HEALTH Program (*Louisiana Register*, Volume 38, Number 12). These services were administered by the Office of Group Benefits. The administration of these services were transferred to the health plans participating in the BAYOU HEALTH Program. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs and to promote the health and welfare of recipients enrolled in the LaCHIP Affordable Plan.

Effective August 31, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing coordinated care networks in order to include Affordable Plan recipients in the BAYOU HEALTH Program.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 3. Medicaid Coordinated Care**

**Chapter 31. Coordinated Care Network**

**§3103. Recipient Participation**

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. - 1.c. ...

d. uninsured women under the age of 65 who have been screened through the Centers for Disease Control National Breast and Cervical Cancer Early Detection Program and identified as being in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage cancer, and are not otherwise eligible for Medicaid;

e. ...

f. children under the age of 19 enrolled in the LaCHIP Affordable Care Plan (phase 5); and

A.2. - B.1.b.v. ...

NOTE. Repealed.

C. ...

D. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. - g. ...

h. are participants in the Take Charge Family Planning Waiver Program;

i. are eligible through the Tuberculosis Infected Individual Program; or

j. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) Program.

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 37:1573 (June 2011), amended LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#074

## DECLARATION OF EMERGENCY

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

#### Coordinated Care Network—Physician Services Reimbursement Methodology (LAC 50:I.3307 and 3509)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3307 and §3509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve quality of care and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain physician services (if they were covered) at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to secure enhanced federal funding.

Effective August 31, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

##### Subpart 3. Medicaid Coordinated Care

#### Chapter 33. Coordinated Care Network Shared Savings Model

##### §3307. Reimbursement Methodology

A. - F.3.l. ...

m. durable medical equipment and supplies;

n. orthotics and prosthetics; and

o. payments made to providers for purposes of complying with section 1932(f) of the Social Security Act and 42 CFR 438.6(c)(5)(vi).

4. - 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 37:1581 (June 2011), amended LR 39:

#### Chapter 35. Coordinated Care Network Managed Care Organization Model

##### §3509. Reimbursement Methodology

A. - A.5. ...

6. A CCN-P shall be reimbursed payments in order to comply with Section 1932(f) of the Social Security Act and 42 CFR 439.6(c)(5)(vi) on a quarterly basis or other period specified by DHH.

a. For calendar years 2013 and 2014 the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, consistent with 42 CFR 438.5 and 438.804 as approved by CMS and as specified in the terms and conditions of the contract between DHH and the CCN-P.

B. - J.2. ...

a. Repealed.

3. For calendar years 2013 and 2014, the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, as specified in the terms and conditions of the contract between DHH and the CCN-P. The CCN-P shall also provide documentation to the state sufficient to enable the state and CMS to ensure that provider payments increase as required by paragraph 42 CFR 438.6(c)(5)(vi)(A) of this Section.

a. The term *member* shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

4. The CCN-P may enter into alternative payment arrangements with its network providers or potential providers with prior approval by the department.

a. The CCN-P shall not enter into alternative payment arrangements with federally qualified health centers or rural health clinics as the CCN-P is required to reimburse these providers according to the published FQHC/RHC Medicaid prospective payment schedule rate in effect on the date of service, whichever is applicable.

M. - N.2.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#075

## DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payments  
Low Income and Needy Care Collaboration  
(LAC 50:V.2503 and 2713)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2503 and adopts §2713 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4). The department amended the provisions governing disproportionate share hospital payments to provide for a supplemental payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 1). The department promulgated an Emergency Rule which amended the provisions of the January 20, 2010 Emergency Rule to revise the participation requirements for the low income and needy care collaboration (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of uninsured individuals by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective August 26, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

#### Subpart 3. Disproportionate Share Hospital Payments

#### Chapter 25. Disproportionate Share Hospital Payment

##### Methodologies

#### §2503. Disproportionate Share Hospital Qualifications

A. - A.5. ...

6. effective September 15, 2006, be a non-rural community hospital as defined in §2701.A;

7. effective January 20, 2010, be a hospital participating in the *low income and needy care collaboration* as defined in §2713.A; and

8. 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:

#### Chapter 27. Qualifying Hospitals

#### §2713. Low Income and Needy Care Collaboration

A. Definitions

*Low Income and Needy Care Collaboration Agreement*—an agreement between a hospital and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

B. In order to qualify under this DSH category in any period, a hospital must be party to a low income and needy care collaboration Agreement with the Department of Health and Hospitals in that period.

C. DSH payments to Low Income and Needy Care Collaborating Hospitals shall be calculated as follows.

1. In each quarter, the department shall divide hospitals qualifying under this DSH category into two pools. The first pool shall include hospitals that, in addition to qualifying under this DSH category, also qualify for DSH payments under any other DSH category. Hospitals in the first pool shall be eligible to receive DSH payments under §2713.C.2 provisions. The second pool shall include all other hospitals qualifying under this DSH category. Hospitals in the second pool shall be eligible to receive DSH payments under §2713.C.3 provisions.

2. In each quarter, to the extent the department appropriates funding to this DSH category, hospitals that qualify under the provisions of §2713.C.2 shall receive 100 percent of the total amount appropriated by the department for this DSH category.

a. If the net uncompensated care costs of these hospitals exceed the amount appropriated for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing the hospital's net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.2 and multiplying by the amount appropriated by the department.

b. If the amount appropriated for this DSH category exceeds the net uncompensated care costs of all hospitals qualifying under §2713.C.2, payment shall be made up to each hospital's net uncompensated care costs.

c. Any amount available after all distributions are made under §2713.C.2 provisions shall be distributed subject to the provisions in §2713.C.3.

3. In each quarter, to the extent distributions are available, and after all distributions are made under §2713.C.2 provisions, distributions under §2713.C.3 provisions shall be made according to the following terms.

a. If the net uncompensated care costs of all hospitals qualifying for payment under §2713.C.3 provisions exceed the amount available for this pool, payment shall be made based on each hospital's pro rata share of the pool.

i. The pro rata share shall be calculated by dividing its net uncompensated care costs by the total of the net uncompensated care costs for all hospitals qualifying under §2713.C.3.

b. If the amount available for payments under §2713.C.3 exceeds the net uncompensated care costs of all qualifying hospitals, payments shall be made up to each hospital's net uncompensated care costs and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

D. In the event it is necessary to reduce the amount of disproportionate share payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under the provisions of §2713.C.3.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.3 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department will reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

E. After the reduction in §2713.D has been applied, if it is necessary to further reduce the amount of DSH payments under this DSH category to remain within the federal disproportionate share allotment in any quarter, the department shall calculate a pro rata decrease for each hospital qualifying under §2713.C.2.

1. The pro rata decrease shall be based on a ratio determined by:

a. dividing that hospital's DSH payments by the total DSH payments for all hospitals qualifying under §2713.C.2 in that quarter; and

b. multiplying the amount of DSH payments calculated in excess of the federal disproportionate share allotment.

2. If necessary in any quarter, the department shall reduce Medicaid DSH payments under these provisions to zero for all applicable hospitals.

F. Qualifying hospitals must submit costs and patient specific data in a format specified by the department. Costs and lengths of stay will be reviewed for reasonableness before payments are made.

G. Payments shall be made on a quarterly basis, however, each hospital's eligibility for DSH and net uncompensated care costs shall be determined on an annual basis.

H. Payments to hospitals qualifying under this DSH category shall be made subsequent to any DSH payments for which a hospital is eligible under another DSH category.

I. 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. The remaining payments shall be redistributed to the other hospitals in accordance with these provisions.

J. If the amount appropriated for this DSH category exceeds the specific DSH limits of all qualifying hospitals, payment will be made up to each hospital's specific DSH limit and the remaining amount shall be used by the department to make disproportionate share payments under this DSH category in future quarters.

K. Effective for dates of service on or after January 1, 2011, all parties that participate in Medicaid DSH payments under this Section, either as a qualifying hospital by receipt of Medicaid DSH payments or as a state or local governmental entity funding Medicaid DSH payments, must meet the following conditions during the period of their participation:

1. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

2. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

3. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

4. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

5. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the low income and needy care collaboration agreement.

6. A participating hospital may not return any of the Medicaid DSH payments it receives under this Section to the governmental entity that provides the non-federal share of the Medicaid DSH payments.

7. A participating governmental entity may not receive any portion of the Medicaid DSH payments made to a participating hospital under this Section.

L. Each participant must certify that it complies with the requirements of §2713.K by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health and Hospitals, Bureau of Health Services Financing.

M. Each qualifying hospital must submit a copy of its low income and needy care collaboration agreement to the department.

N. The Medicaid DSH payments authorized in LAC 50:V.Subpart 3 shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#076

## DECLARATION OF EMERGENCY

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

#### Disproportionate Share Hospital Payments Small Rural Hospitals—Qualifying Criteria (LAC 50:V.2705)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the disproportionate share hospital (DSH) payment methodology in LAC 50:V.Chapters 25 and 27 (*Louisiana Register*, Volume 34, Number 4).

Act 147 of the 2010 Regular Session of the Louisiana Legislature redefined the qualifying criteria for rural hospitals. In compliance with Act 147, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to small rural hospitals in order to redefine the qualifying criteria (*Louisiana Register*, Volume 38, Number 8). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2012 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured

individuals to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective August 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to small-rural hospitals.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

#### Subpart 3. Disproportionate Share Hospital Payments

#### Chapter 27. Qualifying Hospitals

#### §2705. Small-Rural Hospitals

##### A. Definitions

\* \* \*

*Small Rural Hospital*—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

a. - i.i. ...

ii. in a parish with a population of less than 15,800 as measured by the 2000 census; or

m. has no more than 60 hospital beds as of November 1, 2013 and is located:

i. as measured by the 2000 census, in a municipality with a population of less than 33,000;

ii. as measured by the 2000 census, in a parish with a population of less than 68,000; and

iii. within 3 miles of Jackson Barracks.

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 LR 34:2402 (November 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#077

## DECLARATION OF EMERGENCY

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

#### Early and Periodic Screening, Diagnosis and Treatment Dental Program—Reimbursement Rate Reduction (LAC 50:XV.6905)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 14 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to

ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 4).

Due to a budgetary shortfall in state fiscal year 2014, the department has determined that it is necessary to amend the provisions governing the reimbursement methodology for EPSDT dental services to reduce the reimbursement rates. This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$1,655,306 for state fiscal year 2013-2014.

Effective August 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for EPSDT dental services to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 5. Early and Periodic Screening,**

##### **Diagnosis and Treatment**

#### **Chapter 69. Dental Services**

##### **§6905. Reimbursement**

A. - J. ...

K. Effective for dates of service on or after August 1, 2013, the reimbursement fees for EPSDT dental services shall be reduced by 1.5 percent of the rate on file July 31, 2013, unless otherwise stated in this Chapter.

1. The following services shall be excluded from the August 1, 2013 rate reduction:

- a. removable prosthodontics; and
- b. orthodontic services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), amended LR 36:2040 (September 2010), LR 37:1598 (June 2011), LR 39:1048 (April 2013), LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#016

### **DECLARATION OF EMERGENCY**

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

Federally-Qualified Health Centers  
Fluoride Varnish Applications  
(LAC 50:XI.10301 and 10701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.10301 and §10701 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 federally qualified health centers (FQHCs) to provide Medicaid reimbursement for diabetes self-management training services and to reorganize the existing provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 37, Number 9). The department published an Emergency Rule which amended the September 20, 2011 Rule to adopt provisions for the coverage of fluoride varnish application services rendered to Medicaid recipients (*Louisiana Register* Volume 37, Number 11). The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the provisions governing the scope of services for fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective September 16, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing federally qualified health centers.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XI. Clinic Services**

##### **Subpart 13. Federally-Qualified Health Centers**

#### **Chapter 103. Services**

##### **§10301. Scope of Services**

A. - B.1. ...

C. Effective December 1, 2011, the department shall provide coverage for fluoride varnish applications performed in the FQHC. This service shall be limited to recipients from six months through five years of age. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

1. Fluoride varnish applications shall be reimbursed when performed in the FQHC by:

- a. the appropriate dental providers;
- b. physicians;
- c. physician assistants;
- d. nurse practitioners;
- e. registered nurses; or
- f. licensed practical nurses.

2. All participating staff shall review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the FQHC.

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 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1901 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2927 (September 2011), LR 39:

#### **Chapter 107. Reimbursement Methodology**

##### **§10701. Prospective Payment System**

A. - B.3.a. ...

4. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall include coverage for fluoride varnish applications in the FQHC encounter rate.

a. Fluoride varnish applications shall only be reimbursed to the FQHC when performed on the same date of service as an office visit or preventative screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#078

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B) (1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (*Louisiana Register*, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (*Louisiana Register*, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the Developmental Disabilities Request for Services Registry (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2011 Emergency Rule. This



action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding.

Effective September 13, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the Residential Options Waiver.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part XXI. Home and Community Based Services**

### **Waivers**

#### **Subpart 13. Residential Options Waiver**

#### **Chapter 161. General Provisions**

##### **§16101. Introduction**

A. The residential options waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to enhance the long-term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care.

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, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

##### **§16103. Program Description**

A. The ROW is designed to utilize the principles of self-determination and to supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;

2. meets the highest standards of quality and national best practices in the provision of services; and

3. ensures health and safety through a comprehensive system of participant safeguards.

4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/DD ICAP rate established for that individual.

1. When the department determines that it is necessary to adjust the ICF/DD ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the

participant's total available expenditures do not exceed the approved ICAP rate.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

##### **§16105. Participant Qualifications**

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana Developmental Disability Law and determined through the developmental disabilities system entry process;

2. meet the requirements for an ICF/DD level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

3. meet the financial eligibility requirements for the Louisiana Medicaid Program;

4. be a resident of Louisiana; and

5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety and welfare of the individual can be maintained in the community with the provision of ROW services.

1. - 3.c. Repealed.

C. Justification must be documented in the OCDD approved POC that the ROW services are appropriate, cost effective and represent the least restrictive environment for the individual.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 39:

##### **§16106. Money Follows the Person Rebalancing**

###### **Demonstration**

A. The money follows the person (MFP) rebalancing demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with developmental disabilities (ICF/DD).

B. Participants must meet the following criteria for participation in the MFP rebalancing demonstration.

1. Participants with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/DD bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/DD level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry.

D. All other ROW provisions apply to the money follows the person rebalancing demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 39:

### **§16107. Programmatic Allocation of Waiver Opportunities**

A. The developmental disabilities request for services registry (RFSR), hereafter referred to as “the registry,” shall be used to evaluate individuals for ROW opportunities and to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraph B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

a. - e. Repealed.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person’s name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/DD level of care and are being serviced through the OCDD Host Home contracts;

2. persons who meet the ICF/DD level of care and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

i. homeless;

ii. at imminent risk of losing current residential placement;

iii. referred by the judicial system;

iv. referred by child, adult, or elderly protective authorities;

v. without a caregiver and cannot adequately care for self;

vi. with a caregiver who can no longer provide care; or

vii. whose needs cannot be met within a community living situation;

3. children who:

a. are from birth to age 18;

b. reside in a nursing facility;

c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;

d. participate in the MFP rebalancing demonstration; and

e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;

4. persons who reside in a Medicaid-enrolled ICF/DD and wish to transition to a home and community-based residential services waiver through a voluntary ICF/DD bed conversion process;

5. persons who wish to transition from a supports and services center into a ROW opportunity;

6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and

7. persons residing in ICFs/DD who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

C.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 and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16109. Admission Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. The individual does not meet the financial eligibility requirements for the Medicaid Program.

2. The individual does not meet the requirements for an ICF/DD level of care.

3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW Program if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid Program;

2. loss of eligibility for an ICF/DD level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

5. change of residence to another state ;

6. admission to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility or ICF/DD;

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days;

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **Chapter 163. Covered Services**

#### **§16301. Assistive Technology and Specialized Medical Equipment and Supplies**

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices, controls, appliances, supplies and services which enable the participant to:

1. have life support;
2. address physical conditions;
3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;

4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;

5. training or technical assistance, when appropriate, for professionals, other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;

6. all service contracts and warranties included in the purchase of the item by the manufacturer; and

7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.

a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid State Plan service and demonstration of the direct medical, habilitative or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid State Plan.

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.

2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan, Medicare or any other third party insurance is excluded from coverage.

3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;

2. furnish written documentation of authorization to sell, install and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and

3. provide documentation of individual employees' training and experience with the application, use, fitting and repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16303. Community Living Supports**

A. Community living supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community living supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. direct support services or self-help skills training for the performance of all the activities of daily living and self-care;
2. socialization skills training;
  - a. Repealed.
3. cognitive, communication tasks, and adaptive skills training; and
  - a. Repealed.
4. development of appropriate, positive behaviors.
  - a. - b. Repealed.

C. ...

D. Community living supports may be shared by up to three recipients who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met:

1. an agreement must be reached among all involved participants or their legal guardians regarding the provisions of shared CLS services;
2. the health and welfare of each participant must be assured through the provision of shared services;
3. services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination; and
4. a shared rate must be billed.

E. - E.1. ...

2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.

3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.

4. Participants may not live in the same house as CLS staff.

5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.

6. Community living supports shall not be provided in a licensed respite care facility.

a. - d. Repealed.

7. Community living supports services are not available to individuals receiving the following services:

- a. shared living;
- b. home host; or
- c. companion care.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

- a. day habilitation;
- b. prevocational;
- c. supported employment;
- d. respite-out of home services; or
- e. transportation-community access.

F. - F.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, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16305. Companion Care**

A. Companion care services assist the recipient to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a roommate. Companion care services may be furnished through self-direction or through a licensed provider agency as outlined in the participant's POC. This service includes:

1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and
2. community integration and coordination of transportation services, including medical appointments.
3. Repealed.

B. Companion care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age who lives with the participant as a roommate and provides services in the participant's home.

1. - 2. Repealed.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

a. arranging the delivery of services and providing emergency services as needed;

b. making an initial home inspection to the participant's home, as well as periodic home visits as required by the department;

c. contacting the companion a minimum of once per week or as specified in the participant's POC; and

d. providing 24-hour oversight and supervision of the Companion Care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. - b. Repealed.

#### D. Companion Responsibilities

1. The companion is responsible for:

a. participating in and abiding by the POC;

b. ...

c. purchasing his/her own food and personal care items.

#### E. Service Limits

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate

#### F. Service Exclusions

1. Companion Care is not available to individuals receiving the following services:

a. respite care service—out of home;

b. shared living;

c. community living supports; or

d. host home.

2. - 2.d. Repealed.

#### G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16307. Day Habilitation Services

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of day habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the individualized skills and include the intended outcome for the participant.

2. ...

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;

2. be coordinated with any physical, occupational or speech therapies included in the participant's POC;

3. - 4. ...

a. services are based on a one-half day unit of service and on time spent at the service site by the participant;

b. the one-half day unit of service requires a minimum of 2.5 hours;

c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;

d. any time less than 2.5 hours of services is not billable or payable; and

e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the Day Habilitation service; however, transportation is payable only when a Day Habilitation service is provided on the same day.

2. - 4.c. Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

#### E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-community access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or

c. respite care services—out-of-home.

F. Provider Qualifications. Providers must be licensed as an adult day care agency.

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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16309. Dental Services

A. Dental services are available to adult participants over the age of 21 as a component of the ROW. Covered dental services include:

1. diagnostic services;

2. preventative services;

3. restorative services;

4. endodontic services;

5. periodontal services;

6. removable prosthodontics services;

7. maxillofacial prosthetics services;
8. fixed prosthodontics services;
9. oral and maxillofacial surgery
10. orthodontic services; and
11. adjunctive general services.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid State Plan before utilizing dental services through the residential options waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16311. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;
2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;
3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and
4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. installation of ramps and grab-bars;
2. widening of doorways;
3. modification of bathroom facilities; or
4. installation of specialized electric and plumbing systems.

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and
2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

- a. host home; or

b. shared living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

- a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or
  - b. to purchase or lease a vehicle.
2. - 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all applicable standards of manufacture, design and installation for all adaptations to the vehicle.

4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

a. In addition, these providers must:

- i. meet the applicable state and/or local requirements governing their licensure or certification; and
- ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

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 for Citizens with Developmental Disabilities, LR 33:2446 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16313. Host Home**

A. Host home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living and adaptive living needs;
2. assistance to develop leisure interests and daily activities in the home setting;
3. assistance to develop relationships with other members of the household;
4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and
5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host home provider agencies oversee and monitor the host home contractor to ensure the availability, quality, and continuity of services as specified in the ROW manual. Host home provider agencies are responsible for the following functions:

1. arranging for a host home;
2. making an initial and periodic inspections of the host home; and
3. providing 24-hour oversight and supervision of host home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;
2. maintaining and providing data to assist in the evaluation of the participant's personal goals
3. maintaining adequate records to substantiate service delivery and producing such records upon request;
4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the host home setting; and
5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...

F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

F.1. - I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

2.a. - 3. ...

J. Provider Qualifications

1. All agencies must:

- a. have experience in delivering therapeutic services to persons with developmental disabilities;
- b. have staff who have experience working with persons with developmental disabilities;
- c. screen, train, oversee and provide technical assistance to the host home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and
- d. provide on-going assistance to the host home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a class "A" child placing agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of substitute family care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16315. Intensive Community Supports**

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 for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16317. Nursing Services**

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. The services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. - 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid State Plan prior to receiving services through the waiver program.

D. Provider Qualifications

1. In order to participate in the Medicaid Program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW shared living conversion model, be an enrolled Shared Living Services agency with a current, valid license as a Supervised Independent Living agency.

E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with developmental disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis—mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

a. volunteer nursing experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16319. One Time Transitional Services

A. One time transitional services are one-time, set-up services to assist individuals in making the transition from an ICF/DD to their own home or apartment in the community of their choice.

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;

2. set up fees for utilities;

3. essential furnishings to establish basic living arrangements, including:

a. bedroom and living room furniture;

b. table and chairs;

c. window blinds; and

d. food preparation items and eating utensils;

4. set-up/deposit fee for telephone service;

5. moving expenses; and

6. health and safety assurances including:

a. pest eradication; or

b. one-time cleaning prior to occupancy.

C. Service Limits

1. One time transitional expenses are capped at \$3,000 per person over a participant's lifetime.

D. Service Exclusions

1. One time transitional services may not be used to pay for:

a. housing, rent or refundable security deposits; or

b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.

2. One time transitional services are not available to participants who are receiving Host Home services.

3. One time transitional services are not available to participants who are moving into a family member's home.

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, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16321. Personal Emergency Response System (PERS)

A. Personal emergency response system (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. ...

2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or

3. ...

C. PERS services includes rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

D. Service Exclusions

1. Separate payment will not be made for shared living services.

E. Provider Qualifications

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.



2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response center.

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 for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16323. Prevocational Services

A. Prevocational services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

1. - 2.b. ...

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

a. - c. ...

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

a. Repealed.

#### D. Service Limits

1. Services shall be limited to no more than eight hours per day, five days per week.

2. Services are based on a one-half day unit of service and time spent at the service site by the participant.

a. the one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;

b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;

c. any time less than 2.5 hours of service is not billable or payable; and

d. no rounding up of hours is allowed.

3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.

3.a. - 5.a. Repealed.

#### E. Service Exclusions

1. Prevocational Services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or

c. respite care services—out-of-home.

3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

5. Transportation-community access shall not be used to transport ROW participants to any prevocational services.

F. Provider Qualifications. Providers must have a current, valid license as an adult day care center.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16325. Professional Services

A. Professional services are direct services to participants, based on need, that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. - 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapist;

2. physical therapist;

3. speech therapist;

4. registered dietician;

5. social worker; and

6. psychologist.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;

a. - b. Repealed.

2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;

3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;

- a. Repealed.
- 4. provide consultative services and recommendations;
- 5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;
- 6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;
  - a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and
  - b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and
- 7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.

a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and Guidelines for Support Planning.

**D. Service Exclusions**

1. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

a. Repealed.

2. Recipients who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

a. - d. Repealed.

**E. Provider Qualifications**

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

- a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and
- b. possess one year of service delivery experience with persons with developmental disabilities.
- c. In addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider agency enrollment of professional services.

a. The following provider agencies may enroll to provide professional services:

- i. a Medicare certified free-standing rehabilitation center;
- ii. a licensed home health agency;
- iii. a supervised independent living agency licensed by the department to provide shared living services; or
- iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

- i. employing the professionals; or
- ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/DD);

c. paid, full-time experience multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis – mental illness and developmental disability); or

d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

e. Two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

a. volunteer experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

**§16327. Respite Care Services—Out of Home**

A. Respite care services-out of home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite care center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

a. ...

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

**B. Service Limits**

1. Respite care services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

C. Service Exclusions

- 1. ...
- 2. Respite care services-out of home may not be billed for participants receiving the following services:

- a. shared living;
- b. companion care; or
- c. host home.
- d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

**§16329. Shared Living Services**

A. Shared Living Services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

- a. 24-hour staff availability;
- b. assistance with activities of daily living included in the participant's POC;
- c. a daily schedule;
- d. health and welfare needs;
- e. transportation;
- f. any non-residential ROW services delivered by the Shared Living services provider; and
- g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid Facility Need Review approved beds from the total number of certificate of need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. - d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

- a. community living supports;
- b. respite care services;
- c. companion care;
- d. host home; or
- e. Personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a Supervised Independent Living agency.

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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16331. Specialized Medical Equipment and Supplies

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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16333. Support Coordination

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid State Plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the Self-Direction Employer Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### §16335. Supported Employment

A. Supported Employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported Employment services include:

1. ...

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. ...

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. ...

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

a. individual placement services, the minimum is one hour;

b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;

c. an enclave, the minimum is 2.5 hours; and

d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

1. ...

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. - 3.c. ...

4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.

5. ...

a. Travel training for the purpose of teaching the recipient how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. - 6.c. ...

7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.

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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16337. Transportation-Community Access**

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

#### **B. Service Limits**

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

#### **C. Service Exclusions**

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid State Plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

- a. shared living services; or
- b. community living services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid Friends and family transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

- a. the state minimum automobile liability insurance coverage;
- b. a current state inspection sticker; and
- c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for

transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

E.1. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **Chapter 165. Self-Direction Initiative**

#### **§16501. Self-Direction Service Option**

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. ...

a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

i. ...

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. ...

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary Termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. ...

ii. fails to follow the personal purchasing plan and the POC;

C.2.d.iii. - D. ...

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary Companion Care provider.

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

## **Chapter 167. Provider Participation**

### **§16701. General Provisions**

A. ...

1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except host home contractors and companion care workers.

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16703. Staffing Restrictions and Requirements**

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;

2. spouses for each other;

3. legal guardians for adults or children with developmental disabilities; or

4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

a. become an employee of the participant's chosen waiver provider agency;

b. become a Medicaid enrolled provider agency; or

c. if the self-direction option is selected, relatives must:

i. become an employee of the self-direction participant; and

ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

## **Chapter 169. Reimbursement**

### **§16901. Reimbursement Methodology**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e....

f. registered dietician;

4. support coordination; or

5. supported employment:

a. individual placement; and

b. micro-enterprise.

6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and

a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates;

2. assistive technology/specialized medical equipment and supplies.

3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...

2. companion cares; and

3. shared living services.

a. Per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;

2. pre-vocational; and

3. supported employment:

a. mobile crew; and

b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for residential options waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

a. personal emergency response services;

b. environmental accessibility adaption services;

c. specialized medical equipment and supplies; and

d. support coordination services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

### **§16903. Direct Support Staff Wages**

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the residential options waiver are required to pay direct support workers an hourly wage that is at least 29 percent (\$1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;

2. respite services-out of home;

3. shared living;

4. day habilitation;

5. prevocational services; and

6. supported employment.

7. 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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#079

## **DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Low Income and Needy Care Collaboration  
(LAC 50:V.953)

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the reimbursement rates and to provide for a supplemental Medicaid payment to hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients (*Louisiana Register*, Volume 36, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to revise the participation requirements for the Low Income and Needy Care Collaboration (*Louisiana Register*, Volume 37, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective August 26, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services.

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

A. - N.2.b. ...

3. Effective for dates of service on or after January 1, 2011, all parties that participate in supplemental payments under this Section, either as a qualifying hospital by receipt of supplemental payments or as a state or local governmental entity funding supplemental payments, must meet the following conditions during the period of their participation.

a. Each participant must comply with the prospective conditions of participation in the Louisiana Private Hospital Upper Payment Limit Supplemental Reimbursement Program.

b. A participating hospital may not make a cash or in-kind transfer to their affiliated governmental entity that has a direct or indirect relationship to Medicaid payments and would violate federal law.

c. A participating governmental entity may not condition the amount it funds the Medicaid Program on a specified or required minimum amount of low income and needy care.

d. A participating governmental entity may not assign any of its contractual or statutory obligations to an affiliated hospital.

e. A participating governmental entity may not recoup funds from an affiliated hospital that has not adequately performed under the low income and needy care collaboration agreement.

f. A participating hospital may not return any of the supplemental payments it receives under this Section to the governmental entity that provides the non-federal share of the supplemental payments.

g. A participating governmental entity may not receive any portion of the supplemental payments made to a participating hospital under this Section.

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 and Hospitals, Bureau of Health Services Financing.

5. Each qualifying hospital must submit a copy of its low income and needy care collaboration agreement to the department.

6. The supplemental payments authorized in this Section shall not be considered as interim Medicaid inpatient payments in the determination of cost settlement amounts for inpatient hospital services rendered by children's specialty hospitals.

O. - Q.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, 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 (September 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 39:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Center 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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#080

**DECLARATION OF EMERGENCY**

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

LaCHIP Affordable Plan—Dental Program  
Reimbursement Rate Reduction (LAC 50:III.20509)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 14 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 dental services in the LaCHIP Affordable Plan Dental Program in order to reduce the reimbursement fees (*Louisiana Register*, Volume 39, Number 5). Due to a budgetary shortfall in state fiscal year 2014, the department has now determined that it is necessary to amend the provisions governing the reimbursement methodology for the LaCHIP Affordable Plan dental services to reduce the reimbursement rates.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$6,402 for state fiscal year 2013-2014.



Effective August 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the LaCHIP Affordable Plan dental services to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 11. State Children's Health Insurance Program**

#### **Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP) - Phase V**

#### **§20509. Dental Services Reimbursement Methodology**

A. - C. ...

D. Effective for dates of service on or after August 1, 2013, the reimbursement fees for LaCHIP Affordable Plan dental services shall be reduced by 1.5 percent of the rate on file July 31, 2013, unless otherwise stated in this Chapter.

1. The following services shall be excluded from the August 1, 2013 rate reduction:

- a. removable prosthodontics; and
- b. orthodontic services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1285 (May 2013), amended LR 39:0000 (August 2013).

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#014

### **DECLARATION OF EMERGENCY**

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

#### **Nursing Facilities—Reimbursement Rate Reduction (LAC 50:II.20005)**

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service

limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rates paid to non-state nursing facilities in order to remove the rebased amount and sunset the 2011-2012 nursing facility rate rebasing (*Louisiana Register*, Volume 38, Number 5).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated Emergency Rules which amended the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery federal medical assistance percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-state nursing facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 8). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective August 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the reimbursement rates.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part II. Medical Assistance Program**

#### **Subpart 5. Reimbursement**

#### **Chapter 200. Reimbursement Methodology**

#### **§20005. Rate Determination**

[Formerly LAC 50:VII.1305]

A. - L. ...

M. Effective for dates of service on or after September 1, 2012, the average daily rates for non-state nursing facilities shall be reduced by \$13.69 per day of the average daily rate on file as of August 31, 2012 before the state fiscal year 2013 rebase which will occur on September 1, 2012.

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

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

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#081

## DECLARATION OF EMERGENCY

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

#### Nursing Facilities—Reimbursement Rate Reduction (LAC 50:II.20005)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: “The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law.” This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rates paid to non-state nursing facilities in order to remove the rebased amount and sunset the 2011-2012 nursing facility rate rebasing (*Louisiana Register*, Volume 38, Number 5).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated Emergency Rules which amended the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state’s disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-state nursing facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 8). This Emergency Rule is

being promulgated to continue the provisions of the September 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective August 30, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the reimbursement rates.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Medical Assistance Program

##### Subpart 5. Reimbursement

#### Chapter 200. Reimbursement Methodology

##### §20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - M. ...

N. Effective for dates of service on or after September 1, 2012, the average daily rates for non-state nursing facilities shall be reduced by \$1.91 per day of the average daily rate on file as of August 31, 2012 after the state fiscal year 2013 rebase which will occur on September 1, 2012.

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

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

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#082

## DECLARATION OF EMERGENCY

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

#### Pharmacy Benefits Management Program Medication Administration—Influenza Vaccinations (LAC 50:XXIX.123, 991, and 993)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.123 and §991 and adopts §993 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 Pharmacy Benefits Management Program to allow payment for the administration of H1N1 vaccine by qualified Medicaid enrolled pharmacists (*Louisiana Register*, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions governing the Pharmacy Benefits Management Program to allow payment for the administration of the influenza vaccine for all Medicaid recipients, and to provide reimbursement for the cost of the influenza vaccine for Medicaid recipients 19 years of age and older (*Louisiana Register*, Volume 36, Number 12). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2011 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to the influenza vaccine.

Effective August 26, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Pharmacy Benefits Management Program to allow reimbursement for the influenza vaccine and administration of the vaccine.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXIX. Pharmacy**

#### **Chapter 1. General Provisions**

##### **§123. Medication Administration**

A. Influenza Vaccine Administration. The department shall provide coverage for administration of the influenza vaccine by a qualified pharmacist when:

1. the pharmacist has been credentialed by the Louisiana Board of Pharmacy to administer medications; and
2. the pharmacist is Medicaid enrolled.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 39:

#### **Chapter 9. Methods of Payment**

##### **Subchapter H. Vaccines**

##### **§991. Vaccine Administration Fees**

- A. ...
- B. Effective for dates of service on or after January 1, 2011, the reimbursement for administration of the influenza vaccine for all recipients shall be reimbursed at \$15.22 for subcutaneous or intramuscular injection, \$10.90 for nasal/oral administration or billed charges, whichever is the lesser amount. This fee includes counseling, when performed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 39:

##### **§993. Vaccine Reimbursement**

- A. Effective for dates of service on or after January 1, 2011, the influenza vaccine for recipients aged 19 and over

shall be reimbursed at 90 percent of the 2009 Louisiana Medicare average sales price (ASP) allowable or billed charges, whichever is the lesser amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#083

### **DECLARATION OF EMERGENCY**

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

Pregnant Women Extended Services  
Substance Abuse Screening and Intervention Services  
(LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.Chapter 163 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides expanded coverage of certain dental services rendered to Medicaid eligible pregnant women who are in need of periodontal treatment as a means of improving the overall health of mothers and their newborns (*Louisiana Register*, Volume 30, Number 3).

As part of the Department of Health and Hospital's ongoing initiative to improve birth outcomes in the state, the Bureau of Health Services Financing, in collaboration with the Office of Behavioral Health, promulgated an Emergency Rule which adopted provisions to establish Medicaid coverage for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women (*Louisiana Register*, Volume 37, Number 4). Research has shown that tobacco dependence and substance abuse intervention programs targeted to pregnant women improves the overall health of the mother and reduces the occurrences of low birth-weight babies and perinatal deaths. It is anticipated that these new services will improve birth outcomes and subsequently reduce Medicaid costs associated with the care of pregnant women and their babies.

The department promulgated an Emergency Rule which amended the April 1, 2011 Emergency Rule in order to require providers to use the Louisiana Health Assessment Referral and Treatment System (LaHART) to receive payment for substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant

women (*Louisiana Register*, Volume 38, Number 11). LaHART is a web-based, prenatal behavioral health screening system that screens for tobacco, drug and alcohol abuse as well as domestic violence.

The department promulgated an Emergency Rule which amended the November 20, 2012 Emergency Rule in order to allow additional LaHART screening and brief intervention services during the service limit time period under certain circumstances (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and to reduce the Medicaid costs associated with the care of pregnant women and their babies.

Effective September 19, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid coverage of substance abuse screening and brief intervention services rendered to Medicaid-eligible pregnant women.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 13. Pregnant Women Extended Services**

#### **Chapter 163. Substance Abuse Screening and Intervention Services**

#### **§16301. General Provisions**

A. Effective for dates of service on or after April 1, 2011, the department shall provide coverage of substance abuse screening and brief intervention services rendered to Medicaid eligible pregnant women with the Louisiana Health Assessment Referral and Treatment system.

B. Substance abuse screening and intervention services may be performed with the Louisiana Health Assessment Referral and Treatment system at the discretion of the medical professional providing care to the pregnant woman.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§16303. Scope of Services**

A. Screening services shall include the screening of pregnant women with the Louisiana Health Assessment Referral and Treatment system for the use of:

1. alcohol;
2. tobacco;
3. drugs; and/or
4. domestic violence.

B. Intervention services shall include a brief 15-30 minute counseling session with a health care professional intended to help motivate the recipient to develop a plan to moderate or cease their use of alcohol, tobacco, or drugs.

C. Service Limits. Substance abuse screening and intervention services shall be limited to one occurrence each per pregnancy, or once every 270 days.

1. If the patient experiences a miscarriage or fetal death and becomes pregnant within the 270 day period, all LaHART screening and brief intervention services will be reimbursed for the subsequent pregnancy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§16305. Reimbursement Methodology**

A. Effective for dates of service on or after April 1, 2011, the Medicaid Program shall provide reimbursement for substance abuse screening and intervention services rendered to Medicaid eligible pregnant women.

B. Reimbursement for these services shall be a flat fee based on the appropriate healthcare common procedure coding (HCPC) code.

C. Effective for dates of service on or after January 1, 2013, Medicaid reimbursement for substance abuse screening and intervention services shall only be made to providers with documented use of the LaHART system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#084

### **DECLARATION OF EMERGENCY**

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

Professional Services Program—Fluoride Varnish  
Applications (LAC 50:IX.901-905 and 15105)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:IX.901-905 and §15105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the Professional Services Program in order to establish Medicaid reimbursement for fluoride varnish application services rendered by qualified providers in a physician office setting (*Louisiana Register*, Volume 37, Number 11). The department anticipates that coverage of this service will reduce and/or prevent future oral health problems that could have a negative effect on the overall health of children and may reduce the Medicaid cost associated with the treatment of such oral health conditions.

The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the general provisions and scope of services governing fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective September 16, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Professional Services Program.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

##### **Subpart 1. General Provisions**

#### **Chapter 9. Fluoride Varnish Application Services**

##### **§901. General Provisions**

A. Effective for dates of service on or after December 1, 2011, the department shall provide Medicaid coverage of fluoride varnish application services to recipients from six months through five years of age.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### **§903. Scope of Services**

A. Fluoride varnish application services performed in a physician office setting shall be reimbursed by the Medicaid Program when rendered by the appropriate professional services providers.

B. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### **§905. Provider Participation**

A. The entity seeking reimbursement for fluoride varnish application services must be an enrolled Medicaid provider in the Professional Services Program. The following Medicaid enrolled providers may receive reimbursement for fluoride varnish applications:

1. physicians;
2. nurse practitioners; and
3. physician assistants.

B. The following providers who have been deemed as competent to perform the service by the certified physician may perform fluoride varnish application services in a physician office setting:

1. the appropriate dental providers;
2. physicians;
3. physician assistants;
4. nurse practitioners;
5. registered nurses; or
6. licensed practical nurses.

C. Professional service providers shall review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **Subpart 15. Reimbursement**

### **Chapter 151. Reimbursement Methodology**

#### **Subchapter A. General Provisions**

##### **§15105. Fluoride Varnish Application Services**

A. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall provide reimbursement for fluoride varnish application services rendered by qualified health care professionals in a physician office setting.

B. Reimbursement for fluoride varnish application services shall be a flat fee based on the appropriate HCPCS code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#085

### **DECLARATION OF EMERGENCY**

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

Professional Services Program  
Physician Services

Reclassification of Optometry Services  
(LAC 50:IX.15111 and 15113)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and amends LAC 50:IX.15111 and §15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for optometry services as an optional covered service under the Medicaid State Plan. Optometrists are classified in the Medicaid State Plan as other licensed practitioners and their services are not considered mandatory physician services.

The American Recovery and Reinvestment Act (ARRA) of 2009 authorized 100 percent federal financial participation to states for the purpose of establishing incentive payments to encourage Medicaid health care providers to adopt, implement, and use certified electronic health records (EHR) technology. The Act does not provide

for incentive payments to optometrist unless the services rendered by these practitioners are classified as mandatory physician services under the Medicaid State Plan.

Since the department already provides Medicaid reimbursement to participating optometrist to the same extent as physicians who perform the same eye care services, the department promulgated an Emergency Rule which amended the provisions governing physician services in the Professional Services Program in order to reclassify optometry services as a mandatory physician service under the Medicaid state plan (*Louisiana Register*, Volume 38, Number 10). This reclassification will allow optometrists to qualify for EHR incentive payments. This Emergency Rule also repeals the February 1982, January 1987, February 1987, and April 1987 Rules governing optometry services, and revises and repromulgates the June 1985 Rule in a codified format for inclusion in the *Louisiana Administrative Code* (LAC). The department promulgated an Emergency Rule which amended the provisions of the October 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 39, Number 5).

The department has now determined that it is necessary to amend the provisions of the May 20, 2013 Emergency Rule in order to further revise the formatting to ensure that these provisions are appropriately promulgated in the LAC. This action is being taken to secure new and enhanced federal funding, and to expand provider participation in the EHR Incentive Payment Program.

Effective August 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the May 20, 2013 Emergency Rule governing physician services covered in the Professional Services Program.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part IX. Professional Services Program**

##### **Subpart 15. Reimbursement**

#### **Chapter 151. Reimbursement Methodology**

##### **Subchapter B. Physician Services**

##### **§15111. General Provisions**

A. The reimbursement rates for physician services shall be a flat fee for each covered service as specified on the established Medicaid fee schedule. The reimbursement rates shall be based on a percentage of the Louisiana Medicare Region 99 allowable for a specified year.

##### **B. Optometry Services**

1. Effective October 1, 2012, eye care services rendered by a participating optometrist, within their scope of optometric practice, shall be classified and reimbursed under the Medicaid State Plan as a mandatory physician service to the same extent, and according to the same standards as physicians who perform the same eye care services.

2. Recipients in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program are excluded from optometry service limits.

3. The Medicaid Program shall not provide reimbursement for eyeglasses provided to Medicaid recipients 21 years of age or older.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

##### **§15113. Reimbursement**

A. Effective for dates of service on or after October 15, 2007, the reimbursement for selected physician services shall be 90 percent of the 2007 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2007 Louisiana Medicare Region 99 allowable, effective for dates of service on or after October 15, 2007, the reimbursement for these services shall be reduced to 120 percent of the 2007 Louisiana Medicare Region 99 allowable.

B. Effective for dates of service on or after January 1, 2008, the reimbursement for selected physician services shall be 90 percent of the 2008 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount, unless otherwise stipulated.

1. The reimbursement shall remain the same for those services that are currently being reimbursed at a rate that is between 90 percent and 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

2. For those services that are currently reimbursed at a rate above 120 percent of the 2008 Louisiana Medicare Region 99 allowable, effective for dates of service on or after January 1, 2008, the reimbursement for these services shall be reduced to 120 percent of the 2008 Louisiana Medicare Region 99 allowable.

C. Effective for dates of service on or after August 4, 2009, the reimbursement for all physician services rendered to recipients 16 years of age or older shall be reduced to 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. For those services that are currently reimbursed at a rate below 80 percent of the Louisiana Medicare Region 99 allowable, effective for dates of service on or after August 4, 2009, the reimbursement for these services shall be increased to 80 percent of the Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

2. The following physician services are excluded from the rate adjustment:

- a. preventive medicine evaluation and management;
- b. immunizations;
- c. family planning services; and
- d. select orthopedic reparative services.

3. Effective for dates of service on or after November 20, 2009, the following physician services are excluded from the rate adjustment:

- a. prenatal evaluation and management; and
- b. delivery services.

D. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

2. - 3.b. Repealed.

E. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. - 1.c. Repealed.

F. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.D-F shall be increased to the rates in §15113.D-F.

H. Effective for dates of service on or after December 1, 2010, reimbursement shall be 90 percent of the 2009 Louisiana Medicare Region 99 allowable for the following obstetric services when rendered to recipients 16 years of age and older:

1. vaginal-only delivery (with or without postpartum care);
2. vaginal delivery after previous cesarean (VBAC) delivery; and
3. cesarean delivery following attempted vaginal delivery after previous cesarean delivery. The reimbursement for a cesarean delivery remains at 80 percent of the 2009 Louisiana Medicare Region 99 allowable when the service is rendered to recipients 16 years of age and older.

I. - K. Reserved.

1. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#069

## DECLARATION OF EMERGENCY

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

Professional Services Program  
Physician Services  
Reimbursement Rate Reduction  
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department promulgated Emergency Rules which amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10 and Volume 39, Number 5). This Emergency Rule is being promulgated to amend the provisions of the May 20, 2013 Emergency Rule governing the reimbursement methodology for physician services. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective August 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the May 20, 2013 Emergency Rule governing the reimbursement methodology for physician services.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part IX. Professional Services Program

#### Subpart 15. Reimbursement

#### Chapter 151. Reimbursement Methodology

#### Subchapter B. Physician Services

#### §15113. Reimbursement

A. - H.3. ...

I. Effective for dates of service on or after July 1, 2012, reimbursement shall be as follows for the designated physician services:

1. reimbursement for professional services procedure (consult) codes 99241-99245 and 99251-99255 shall be discontinued;

2. cesarean delivery fees (procedure codes 59514-59515) shall be reduced to equal corresponding vaginal delivery fees (procedure codes 59409-59410); and

3. reimbursement for all other professional services procedure codes shall be reduced by 3.4 percent of the rates on file as of June 30, 2012.

J. - K. Reserved.

1. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#070

## DECLARATION OF EMERGENCY

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

Professional Services Program  
Physician Services  
Reimbursement Rate Reduction  
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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 physician services to increase the reimbursement rates for obstetric

delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department subsequently amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10).

Due to a continuing budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to further reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). The department promulgated an Emergency Rule which amended the provisions of the October 20, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 39, Number 5). This Emergency Rule is being promulgated to amend the provisions of the May 20, 2013 Emergency Rule governing the reimbursement methodology for physician services. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective August 20, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the May 20, 2013 Emergency Rule governing the reimbursement methodology for physician services.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part IX. Professional Services Program

#### Subpart 15. Reimbursement

### Chapter 151. Reimbursement Methodology

#### Subchapter B. Physician Services

### §15113. Reimbursement

A. - H.3....

I. - J.4. Reserved.

K. Effective for dates of service on or after February 1, 2013, the reimbursement for certain physician services shall be reduced by 1 percent of the rate in effect on January 31, 2013.

1. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#071



## DECLARATION OF EMERGENCY

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

#### Rural Health Clinics—Fluoride Varnish Applications (LAC 50:XI.16301 and 16701)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.16301 and §16701 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 rural health clinics (RHCs) to provide Medicaid reimbursement for diabetes self-management training services and to reorganize the existing provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 37, Number 9). The department promulgated an Emergency Rule which amended the September 20, 2011 Rule to adopt provisions for the coverage of fluoride varnish application services rendered to Medicaid recipients (*Louisiana Register*, Volume 37, Number 11). The department promulgated an Emergency Rule which amended the December 1, 2011 Emergency Rule to clarify the provisions governing the scope of services for fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients.

Effective September 16, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing rural health clinics.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XI. Clinic Services

#### Subpart 15. Rural Health Clinics

#### Chapter 163. Services

#### §16301. Scope of Services

A. - B.1. ...

C. Effective December 1, 2011, the department shall provide coverage for fluoride varnish applications performed in the RHC. This service shall be limited to recipients from six months through five years of age. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

1. Fluoride varnish applications shall be reimbursed when performed in the RHC by:

- a. the appropriate dental providers;
- b. physicians;
- c. physician assistants;
- d. nurse practitioners;
- e. registered nurses; or
- f. licensed practical nurses.

2. All participating staff shall review the Smiles for Life training module for fluoride varnish and successfully

pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the RHC.

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 32:1904 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2631 (September 2011), LR 39:

#### Chapter 167. Reimbursement Methodology §16701. Prospective Payment System

A. - B.3.a. ...

4. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall include coverage for fluoride varnish applications in the RHC encounter rate.

a. Fluoride varnish applications shall only be reimbursed to the RHC when performed on the same date of service as an office visit or preventative screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2632 (September 2011), LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#086

## DECLARATION OF EMERGENCY

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

State Children's Health Insurance Program  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:III.20501, 20505 and 20507)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20501 and §§20505-20507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement phase five of the Louisiana

Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the federal poverty level (*Louisiana Register*, Volume 34, Number 4).

The department promulgated an Emergency Rule which amended the April 2008 Rule in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (Phase 5) to the health plans participating in the BAYOU HEALTH Program, and the administration of behavioral health services to the statewide management organization in the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 12).

This Emergency Rule also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements since they will no longer be attributable to the LaCHIP Affordable Plan program. Only the monthly premium per household shall apply. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective August 31, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the LaCHIP Affordable Plan in order to transfer the administration of these services to the BAYOU HEALTH Program and the Louisiana Behavioral Health Partnership.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 11. State Children's Health Insurance Program**

#### **Chapter 205. Louisiana Children's Health Insurance**

#### **Program (LaCHIP)—Phase V**

#### **§20501. General Provisions**

A. ...

B. The department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the BAYOU HEALTH Program and behavioral health services provided through the Louisiana Behavioral Health Partnership (LBHP).

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§20505. Covered Services**

A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the statewide management organization under the LBHP. The following services shall be included:

1. - 8. ...
9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:
- 9.a. - 10. ...
11. nursing care services;
  - a. Repealed.
12. ...
13. inpatient substance abuse treatment services, including residential substance abuse treatment services:
  - a. Inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
  - b. ...
14. outpatient substance abuse treatment services:
  - a. all services must be pre-certified;
  - b. ...
15. case management services;
  - a. Repealed.
16. - 16.a. ...
17. hospice care;
  - a. Repealed.
18. medical transportation; and
  - a. Repealed.
19. ...

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§20507. Cost Sharing**

A. Phase five of LaCHIP is a cost-sharing program with premiums limited to no more than 5 percent of the family's annual income.

B. The following cost-sharing criteria shall apply.

1. - 1.a. ...

2. - 3.e. Repealed.

C. Non-payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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.

Kathy H. Kliebert  
Secretary

1308#087

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 2013 Fall Inshore Shrimp Season Opening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or parts of state inside waters and shall have the authority to open or close state outside waters, the Wildlife and Fisheries Commission does hereby set the 2013 Fall Shrimp Season in inside waters to open as follows:

All Louisiana inside waters from the Mississippi-Louisiana state line to the Louisiana-Texas state line, shall open at 6 p.m. August 12, 2013 except for those inside waters from the western shore of the Atchafalaya River and the Atchafalaya River Ship Channel out to Eugene Island as described by the inside-outside shrimp line in R.S. 56:495 westward to the Louisiana/Texas state line which shall open at 6 a.m. August 12, 2013.

The commission grants authority to the Secretary of the Department of Wildlife and Fisheries to delay or advance the opening dates and close the fall shrimp season when biological and technical data indicate the need to do so or if enforcement problems develop; and, to close and reopen all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters; and, to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing shrimp populations.

Billy Broussard  
Vice Chairman

1308#063

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### 2013 Oyster Season on Public Seed Ground

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953, and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1(D) notice is hereby given that the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare the 2013/2014 oyster season as follows:

The Little Lake Public Oyster Seed Grounds, as described in Louisiana Administrative Code (LAC) 76:VII:521, the Barataria Bay, Deep Lake, and Lake Tambour Public Oyster Seed Grounds, as described in LAC 76:VII:517, and the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds, as described in LAC 76:VII:507 and 76:VII:509 shall open one-half hour before sunrise on Wednesday, September 4, 2013.

All remaining public oyster seed grounds and reservations, as described in R.S. 56:434, LAC 76:VII.511, LAC 76:VII.513, and LAC 76:VII.517, including Lake Borgne, Sister Lake, Lake Mechant, the Lake Machias/Fortuna Sacking-Only Area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet, and the Sacking-Only Area in the American Bay area which is that portion of the public grounds within Bay Long west of a line running generally north/south from a point at 29 degrees 31 minutes 13.78 seconds N latitude, 89 degrees 34 minutes 9.79 seconds W longitude to a point at 29 degrees 29 minutes 40.67 seconds N latitude, 89 degrees 34 minutes and 8.48 seconds W longitude, shall open at one-half hour before sunrise on Tuesday, October 15, 2013.

The oyster season in the west cove portion of the Calcasieu Lake public oyster area, as described in R.S. 56:435.1.1, shall open one-half hour before sunrise on Friday, November 1, 2013. The sack limit for west cove portion of Calcasieu Lake is set at 10 sacks per person per vessel per day as provided for in R.S. 56:435.1.1. However, these conservation actions shall not supersede public health closures.

The following areas shall remain closed for the entire 2013/2014 oyster season:

1. The Bay Gardene Public Oyster Seed Reservation;
2. The Bay Junop Public Oyster Seed Reservation;
3. The Lake Chien and Lake Felicity Public Oyster Seed Grounds;
4. The east side of the Calcasieu Lake Public Oyster Area;
5. Sabine Lake Public Oyster Area (as described in R.S. 56:435.1);
6. The 2011, 2012, and 2013 cultch plants within the following coordinates:

#### **Mississippi Sound (2011) - St. Bernard Parish**

- a. 30 degrees 07 minutes 17.56 seconds N  
89 degrees 27 minutes 52.39 seconds W
- b. 30 degrees 07 minutes 26.94 seconds N  
89 degrees 27 minutes 36.20 seconds W
- c. 30 degrees 07 minutes 07.11 seconds N  
89 degrees 26 minutes 45.48 seconds W
- d. 30 degrees 06 minutes 40.93 seconds N  
89 degrees 27 minutes 14.09 seconds W

#### **California Bay (2011) - Plaquemines Parish**

- a. 29 degrees 30 minutes 40.42 seconds N  
89 degrees 34 minutes 03.19 seconds W
- b. 29 degrees 30 minutes 27.18 seconds N  
89 degrees 33 minutes 21.85 seconds W
- c. 29 degrees 29 minutes 54.99 seconds N  
89 degrees 33 minutes 20.24 seconds W
- d. 29 degrees 30 minutes 02.74 seconds N  
89 degrees 34 minutes 03.93 seconds W

#### **Hackberry Bay (2012) - Lafourche Parish**

- a. 29 degrees 25 minutes 21.16 seconds N  
90 degrees 02 minutes 59.53 seconds W
- b. 29 degrees 24 minutes 58.30 seconds N  
90 degrees 02 minutes 51.34 seconds W
- c. 29 degrees 24 minutes 29.25 seconds N  
90 degrees 03 minutes 24.92 seconds W

- d. 29 degrees 24 minutes 45.37 seconds N  
90 degrees 03 minutes 35.33 seconds W

**Sister Lake (2012) - Terrebonne Parish**

- a. 29 degrees 14 minutes 0.84 seconds N  
90 degrees 55 minutes 21.24 seconds W
- b. 29 degrees 14 minutes 15.33 seconds N  
90 degrees 54 minutes 0.71 seconds W
- c. 29 degrees 14 minutes 22.94 seconds N  
90 degrees 55 minutes 25.09 seconds W
- d. 29 degrees 14 minutes 40.10 seconds N  
90 degrees 54 minutes 11.51 seconds W

**Bay Crab (2012) - Plaquemines Parish**

- a. 29 degrees 34 minutes 41.72 seconds N  
89 degrees 36 minutes 22.86 seconds W
- b. 29 degrees 34 minutes 31.45 seconds N  
89 degrees 35 minutes 48.68 seconds W
- c. 29 degrees 34 minutes 08.12 seconds N  
89 degrees 36 minutes 07.94 seconds W
- d. 29 degrees 34 minutes 23.03 seconds N  
89 degrees 36 minutes 43.20 seconds W

**Lake Fortuna (2012) - St. Bernard Parish**

- a. 29 degrees 39 minutes 08.04 seconds N  
89 degrees 30 minutes 28.93 seconds W
- b. 29 degrees 38 minutes 33.31 seconds N  
89 degrees 29 minutes 15.45 seconds W
- c. 29 degrees 38 minutes 10.57 seconds N  
89 degrees 29 minutes 40.71 seconds W
- d. 29 degrees 39 minutes 04.41 seconds N  
89 degrees 30 minutes 32.61 seconds W

**3-Mile Pass (2013) - St. Bernard Parish**

- a. 30 degrees 03 minutes 56.09 seconds N  
89 degrees 22 minutes 32.52 seconds W
- b. 30 degrees 03 minutes 56.70 seconds N  
89 degrees 22 minutes 15.40 seconds W
- c. 30 degrees 03 minutes 18.00 seconds N  
89 degrees 22 minutes 06.30 seconds W
- d. 30 degrees 03 minutes 30.49 seconds N  
89 degrees 22 minutes 38.17 seconds W

**Drum Bay (2013) - St. Bernard Parish**

- a. 29 degrees 53 minutes 13.00 seconds N  
89 degrees 17 minutes 40.21 seconds W
- b. 29 degrees 53 minutes 16.51 seconds N  
89 degrees 16 minutes 51.12 seconds W
- c. 29 degrees 52 minutes 56.17 seconds N  
89 degrees 16 minutes 49.80 seconds W
- d. 29 degrees 52 minutes 53.99 seconds N  
89 degrees 17 minutes 40.43 seconds W

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered. The secretary shall notify the Chairman of the Wildlife and Fisheries Commission of his intention to close an area.

The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource

has ended, or may open areas if substantial oyster resources are located.

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

Ronald Graham  
Chairman

1308#062

**DECLARATION OF EMERGENCY**

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

**2013-2014 Waterfowl Season Dates**

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule.

The hunting season for ducks, coots and geese during the 2013-2014 hunting season shall be as follows:

**Ducks and Coots: 60 days**

- Coastal Zone: November 9 - Dec. 1  
December 14 - January 19
- West Zone: November 16 - December 15  
December 21 - January 19
- East Zone: November 23 - December 8  
(Including December 14 - January 26  
Catahoula Lake)

Youth Waterfowl Weekend - November 2-3 in the Coastal Zone, Nov. 9 and Jan. 25 in the West Zone, November 16 and Feb. 1 in East Zone.

Daily Bag Limits: The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 2 canvasback, 1 mottled duck, 1 black duck, 3 wood ducks, 3 scaup, 2 redheads, and 2 pintails.

Daily bag limit on coots is 15.

Mergansers - The daily bag limit for mergansers is 5, only 2 of which may be hooded mergansers. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit - The possession limit on ducks, coots and mergansers is three times the daily bag limit.

**Geese:**

**LIGHT GEESE (SNOW, BLUE and ROSS') and WHITE-FRONTED GEESE**

- Coastal Zone: November 9 - December 1  
(74 days) December 14 - February 2
- West Zone: November 16 - December 15  
(74 days) December 21 - February 2
- East Zone: November 9 - December 8  
(74 days) December 14 - January 26

Daily bag limit on light geese (snow, blue and Ross'): 20

Possession limit on light geese (snow, blue and Ross'):

None

Daily Limit on white-fronted geese: 2

Possession Limit on white-fronted geese: 6

NOTE: During the open Canada goose season, the daily bag limit is 3 dark geese (White-fronted and Canada) no more than 2 of which may be White-fronted geese.

**Canada Geese: Closed in the Area Described Below**

Coastal Zone: November 9 - December 1  
(72 days) December 14 - January 31

West Zone: November 16 - December 15  
(72 days) December 21 - January 31

East Zone: November 9 - December 8  
(74 days) December 14 - January 26

Daily Limit on Canada geese: 3 in aggregate with White-fronts

Possession limit on Canada geese: 9

NOTE: During the open Canada goose season, the daily bag limit is 3 dark geese (White-fronted and Canada) no more than 2 of which may be White-fronted geese.

The Canada goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82.

**Conservation Order for Light Geese (Snow, Blue and Ross's):**

Coastal Zone: December 2 - December 13  
February 3 - March 2

West Zone: December 16 - December 20  
February 3 - March 2

East Zone: December 9 - December 13  
January 27 - March 2

Only snow, blue and Ross's geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begins one-half hour before sunrise and extends until one-half hour after sunset.

**Rails:** November 9 - January 1

King and Clapper: Daily bag limit 15 in the aggregate, Possession 45.

Sora and Virginia: Daily bag 25 in the aggregate and possession 75.

**Gallinules:** November 9 - January 1

Daily bag limit 15, Possession limit 45

**Snipe:**

Coastal Zone: November 2 - December 1  
December 14 - February 28

West Zone: November 9 - December 15  
December 21 - February 28

East Zone: November 9 - December 8  
December 14 - February 28

Daily bag limit 8, Possession limit 24

Shooting Hours: One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

**Extended Falconry Seasons for Ducks, Rails and Gallinules:**

STATEWIDE: November 4 - February 2

(16 days of the total season lengths for rails, gallinules and extended falconry seasons were used during the September teal season.)

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2013 and extend through one-half hour after sunset on March 2, 2014.

Billy Broussard  
Vice Chairman

1308#060

**DECLARATION OF EMERGENCY**

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

**Closure of Hunting in a Portion of Orleans Parish**

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The Wildlife and Fisheries Commission does hereby repeal the rule closing that portion of Orleans Parish east of the Jefferson-Orleans Parish line, northward to the southern shoreline of Lake Pontchartrain, northeast along the southern shoreline of Lake Pontchartrain to South Point, east-southeast along the southern shoreline of Lake Pontchartrain to Chef Pass, the southern shoreline of Chef Pass eastward to the western shoreline of the Intra-Coastal Waterway, the western shoreline of the Intra-Coastal Waterway southward to the Industrial Canal, the Industrial Canal south to the Mississippi River, and the Mississippi River to the Orleans-Jefferson Parish line to all hunting or shooting by any means or device effective September 01, 2013.

The commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to indicate the need to do so, or as needed to effectively implement the provisions herein.

Billy Broussard  
Vice Chairman

1308#059

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Coastal Shark Commercial Season Closure

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its rule LAC 76:VII.357.M.2 which allows the secretary authority to modify seasons to maintain consistency with the adjacent federal waters, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent federal waters, the Secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., July 19, 2013, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark and tiger shark) will close and remain closed until further notice. This closure will not pertain to persons holding a federal shark research permit issued by NOAA Fisheries Service, when those persons are legally fishing under the regulations promulgated for that permit including that a NMFS-approved observer is aboard the vessel. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks, whether taken from within or without Louisiana waters, except for a federal shark research permit holder, when legally operating under that permit. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure, or from federal shark research permit holders, provided that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by NOAA Fisheries Service that the harvest of large coastal sharks in the federal waters of the Gulf of Mexico will close at 11:30 p.m. local time on July 17, 2013, and will be closed until 30 days after promulgation of seasonal rules for the 2014 shark season. The commercial season for harvest of large coastal shark in Louisiana waters will remain closed until the announcement is made of the seasons for the harvest of large coastal shark in federal waters off of Louisiana. Establishing this closure

is necessary to ensure that compatible regulations are in effect, and to increase effectiveness of enforcement operations.

Robert Barham  
Secretary

1308#006

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Recreational and Commercial Fisheries Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately August 1, 2013 in the following areas:

Those waters north of 28 degrees 56 minutes 30 seconds north latitude and south of 28 degrees 59 minutes 30 seconds north latitude from the eastern shore of Southwest Pass of the Mississippi River eastward to a line beginning at 28 degrees 59 minutes 30 seconds north latitude and -89 degrees 19 minutes 50 seconds west longitude and ending at 28 degrees 56 minutes 30 seconds north latitude and -89 degrees 23 minutes 00 seconds west longitude; and, those waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 02 minutes 20 seconds north latitude from the western shore of South Pass of the Mississippi River westward to -89 degrees 15 minutes 25 seconds west longitude; and, those waters north of 28 degrees 59 minutes 40 seconds north latitude and south of 29 degrees 02 minutes 00 seconds north latitude from the western shore of South Pass of the Mississippi River westward to -89 degrees 15 minutes 25 seconds west longitude and southeastward along a line beginning at 29 degrees 02 minutes 00 seconds north latitude and -89 degrees 15 minutes 25 seconds west longitude and ending at 28 degrees 59 minutes 40 seconds north latitude and -89 degrees 10 minutes 15 seconds west longitude; and, those waters west of the western shore of South Pass of the Mississippi River south of 28 degrees 59 minutes 40 seconds north latitude bounded by the following coordinates: 1) 28 degrees 59 minutes 15 seconds north latitude and -89 degrees 08 minutes 15 seconds west longitude, 2) 28 degrees 58 minutes 20 seconds north latitude and -89 degrees 10 minutes 00 seconds west longitude, 3) 28 degrees 59 minutes 01 seconds north latitude and -89 degrees 11 minutes 00 seconds west longitude, 4) 28 degrees 59 minutes 40 seconds north latitude and -89 degrees 10 minutes 15 seconds west longitude; and, those waters east of the eastern shore of South Pass of the Mississippi River and south of 29 degrees 01 minutes 50 seconds north latitude eastward to a line beginning at 29 degrees 01 minutes 50 seconds north latitude and -89 degrees 07 minutes 20 seconds west longitude and ending at 28 degrees 59 minutes 35 seconds north latitude and -89 degrees 08 minutes 00 seconds west longitude; and, those waters adjacent to but not

including Northeast Pass and Southeast Pass of the Mississippi River and bounded by the following coordinates: 1) 29 degrees 08 minutes 35 seconds north latitude and -89 degrees 04 minutes 20 seconds west longitude, 2) 29 degrees 08 minutes 15 seconds north latitude and -89 degrees 02 minutes 10 seconds west longitude, 3) 29 degrees 04 minutes 50 seconds north latitude and -89 degrees 04 minutes 10 seconds west longitude, 4) 29 degrees 05 minutes 30 seconds north latitude and -89 degrees 05 minutes 10 seconds west longitude; and, those waters south and west of Pass a Loutre of the Mississippi River and east of -89 degrees 05 minutes 35 seconds west longitude bounded by the following coordinates: 1) 29 degrees 11 minutes 25 seconds north latitude and -89 degrees 03 minutes 30 seconds west longitude, 2) 29 degrees 11 minutes 00 seconds north latitude and -89 degrees 02 minutes 25 seconds west longitude, 3) 29 degrees 09 minutes 00 seconds north latitude and -89 degrees 05 minutes 35 seconds west longitude, 4) 29 degrees 11 minutes 00 seconds north latitude and -89 degrees 05 minutes 35 seconds west longitude; and, those waters south of North Pass of the Mississippi River bounded by the following coordinates: 1) 29 degrees 11 minutes 35 seconds north latitude and -89 degrees 02 minutes 55 seconds west longitude, 2) 29 degrees 12 minutes 35 seconds north latitude and -89 degrees 01 minutes 05 seconds west longitude, 3) 29 degrees 11 minutes 35 seconds north latitude and -89 degrees 01 minutes 10 seconds west longitude, 4) 29 degrees 11 minutes 10 seconds north latitude and -89 degrees 02 minutes 00 seconds west longitude; and, those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and -89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and -89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and -89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and -89 degrees 57 minutes 20 seconds west longitude; and, those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from -89 degrees 50 minutes 00 seconds west longitude westward to -89 degrees 57 minutes 00 seconds west longitude; and, that portion of state outside waters seaward a distance of one mile from the inside/outside shrimp line from the western shore of Caminada Pass at -90 degrees 02 minutes 46.597 seconds west longitude westward to the eastern shore of Belle Pass at -90 degrees 13 minutes 30 seconds west longitude; and that portion of state outside waters seaward a distance of one-half mile from the shoreline from the southwestern shore of Grand Terre Island 2 at -89 degrees 54 minutes 04 seconds west longitude; thence eastward along the shoreline to the southeastern shore of Grand Terre Island 2 at -89 degrees 51 minutes 39 seconds west longitude; thence eastward along 29 degrees 18 minutes 46 seconds north latitude to -89 degrees 51 minutes 19 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling, charter boat angling and the harvest of bait by wholesale/retail seafood dealers who hold a special

bait dealers permit and who harvest bait for sale to recreational fishermen exclusively, pursuant to the provisions of LAC 76:VII.329 is allowed: those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and -89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and -89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and -89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and -89 degrees 57 minutes 20 seconds west longitude; and, those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from -89 degrees 50 minutes 00 seconds west longitude westward to -89 degrees 57 minutes 00 seconds west longitude; and, that portion of state outside waters seaward a distance of one mile from the inside/outside shrimp line from western shore of Caminada Pass at -90 degrees 02 minutes 46.597 seconds west longitude westward to the eastern shore of Belle Pass at -90 degrees 13 minutes 30 seconds west longitude; and, those state outside waters seaward a distance of one-half mile from the shoreline from the southwestern shore of Grand Terre Island 2 at -89 degrees 54 minutes 04 seconds west longitude; thence eastward along the shoreline to the southeastern shore of Grand Terre Island 2 at -89 degrees 51 minutes 39 seconds west longitude; thence eastward along 29 degrees 18 minutes 46 seconds north latitude to -89 degrees 51 minutes 19 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life.

The commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein.

Billy Broussard  
Vice Chairman

1308#061

## **DECLARATION OF EMERGENCY**

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

Spring Inshore Shrimp Season Closure in  
Remaining State Inside Waters except in Portions  
of the Pontchartrain Basin

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

procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on May 2, 2013 which authorized the secretary of the Department of Wildlife and Fisheries to close the 2013 spring inshore shrimp season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the secretary hereby declares:

The 2013 spring inshore shrimp season will close on July 18, 2013 at 6 a.m. in that portion of state inside waters within the Terrebonne Basin south of 29 degrees 15 minutes 00 seconds north latitude from -90 degrees 18 minutes 00 seconds west longitude westward to -90 degrees 34 minutes 00 seconds west longitude, and south of 29 degrees 07 minutes 00 seconds north latitude from -90 degrees 34 minutes 00 seconds west longitude westward to -90 degrees 50 minutes 30 seconds west longitude; and, in the Pontchartrain and Barataria Basins from the Mississippi/Louisiana state line westward to the eastern shore of Bayou Lafourche, except for that portion of Mississippi Sound beginning at a point on the Louisiana-Mississippi lateral boundary at 30 degrees 09 minutes 39.6 seconds north latitude and -89 degrees 30 minutes 00.0 seconds west longitude; thence due south to a point at 30 degrees 05 minutes 00.0 seconds north latitude and -89 degrees 30 minutes 00.0 seconds west longitude; thence

southeasterly to a point on the western shore of Three-Mile Pass at 30 degrees 03 minutes 00.0 seconds north latitude and -89 degrees 22 minutes 23.0 seconds west longitude; thence northeasterly to a point on Isle Au Pitre at 30 degrees 09 minutes 20.5 seconds north latitude and -89 degrees 11 minutes 15.5 seconds west longitude, which is a point on the double-rig line as described in R.S. 56:495.1(A)2; thence northerly along the double-rig line to a point on the Louisiana-Mississippi lateral boundary at 30 degrees 12 minutes 37.9056 seconds north latitude and -89 degrees 10 minutes 57.9725 seconds west longitude; thence westerly along the Louisiana-Mississippi lateral boundary to the point of beginning, and the open waters of Breton and Chandeleur Sounds as described by the double-rig line in R.S. 56:495.1(A)2.

Those waters in which the spring inshore shrimp season has been extended, as well as all state outside waters seaward of the inside/outside shrimp line will remain open to shrimping until further notice except for those areas closed to recreational and commercial fishing due to the Deepwater Horizon oil spill disaster.

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

Robert J. Barham  
Secretary

1308#001



# Rules

## RULE

### Board of Trustees of the Assessors' Retirement Fund

Assessors' Retirement Fund (LAC 58:XIX.Chapters 1-7)

The Board of Trustees of the Assessors' Retirement Fund (fund) adopts LAC 58.XIX.Chapters 1-7 as interpretation of the provisions of the fund, as authorized by R.S. 11:1404(A). This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49.950 et seq. The purpose of the Rule is compliance with requirements imposed by the Internal Revenue Service as a condition of its favorable determination letter on the qualification of the fund under Internal Revenue Code (IRC) §401(a).

#### Title 58

#### RETIREMENT

#### Part XIX. Assessors' Retirement Fund

#### Chapter 1. General Provisions

#### §101. Compensation

A. Definitions. As provided under R.S. 11:1402(6), effective for limitation years beginning on or after July 1, 2007, compensation is hereby defined as follows.

*Compensation*—the regular pay of the member, not including any overtime or bonuses;

*IRC §415 Compensation*—wages, tips and other compensation required to be reported under §§6041, 6051 and 6052 of the *Internal Revenue Code* (IRC) (wages, tips and other compensation box on IRS Form W-2), during the calendar year of the plan (the plan year or determination period).

B. Exclusions from Compensation. Compensation shall not include:

1. any amounts that are not includible in IRC §415 compensation;

2. employer contributions to a plan of deferred compensation to the extent contributions are not included in gross income of the employee for the taxable year in which contributed, or on behalf of an employee to a simplified employee pension plan and any distributions form a plan of deferred compensation;

3. amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee becomes freely transferable or is no longer subject to a substantial risk of forfeitures;

4. amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;

5. other amounts that receive special tax benefits, or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of a IRC § 403(b) annuity contract (whether or not the contributions are excludible from the gross income of the employee); and

6. pre-tax amounts contributed by the employee to an IRC §125 cafeteria plan.

C. Determination of IRC §415 Compensation. IRC §415 compensation must be determined without regard to any rules under IRC §3401(a) that limit the remuneration

included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC §3401(a)(2)).

1. For plan years beginning on and after January 1, 2001:

a. IRC §415 compensation shall include elective amounts that are not includible in the gross income of the employee under IRC §§125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457.

2. For any plan year beginning after December 31, 2001:

a. IRC §415 compensation shall not exceed the maximum amount of compensation permitted to be taken into account under IRC §401(a)(17), \$200,000 adjusted for the cost of living increases in accordance with IRC §401(a)(17)(B).

i. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

3. If a determination period consists of fewer than 12 months, as a result of a change in plan year or in the year of the termination of the plan:

a. the IRC §415 compensation limit is an amount equal to the otherwise applicable IRC §415 compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12;

4. If IRC §415 compensation for any prior determination period is taken into account in determining a participant's benefit for the current plan year, the IRC §415 compensation for such prior determination period is subject to the applicable IRC §415 compensation limit in effect for that prior period.

D. IRC §415 Compensation Paid After Severance from Employment

1. Adjusted Compensation. IRC §415 compensation shall be adjusted for the following types of compensation paid after a participant's severance from employment with the employer maintaining the plan (or any other entity that is treated as the employer pursuant to IRC §414(b), (c), (m) or (o)). However, amounts described in Paragraphs 2-8 of this Subsection may only be included in IRC §415 compensation to the extent such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance from employment that is not described in the following types of compensation is not considered IRC §415 compensation within the meaning of IRC §415(c)(3), even if payment is made within the time period specified above.

2. Regular Pay. IRC §415 compensation shall include regular pay after severance from employment if:

a. the payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular

working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

b. the payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the employer.

3. Leave Cashouts. Leave cashouts shall be included in IRC §415 compensation if:

a. those amounts would have been included in the definition of IRC §415 compensation if they were paid prior to the participant's severance from employment; and

b. the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if:

i. the participant would have been able to use the leave if employment had continued.

4. Deferred Compensation. IRC §415 compensation will include deferred compensation if the compensation would have been included in the definition of IRC §415 compensation if:

a. it had been paid prior to the participant's severance from employment; and

b. the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if:

i. the payment would have been paid at the same time if the participant had continued in employment with the employer and only to the extent that the payment is includible in the participant's gross income.

5. Qualified Military Service. IRC §415 compensation does not include payments to an individual who does not currently perform services for the employer by reason of qualified military service (as that term is used in IRC §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

6. Permanently and Totally Disabled. IRC §415 compensation does not include compensation paid to a participant who is permanently and totally disabled (as defined in IRC §22(e)(3)).

7. Amounts Earned but not Paid. IRC §415 compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

8. Lost Wages. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate an employee for lost wages are IRC §415 compensation for the limitation year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in IRC §415 compensation.

#### E. Limitation Year

1. The limitation year:

a. shall be the calendar year of the fund;

b. is the period that is used to apply the limitations of IRC §415.

2. The limitation year may only be changed by amendment to the fund.

a. Furthermore, if the fund is terminated effective as of a date other than the last day of the fund's limitation year, then the fund is treated as if the fund had been amended to change its limitation year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1402(6), R.S. 11:1404(A), and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2187 (August 2013).

### §103. Actuarial Equivalent

A. As provided under R.S. 11:1402(8), *actuarial equivalent* shall be defined using the following assumptions.

1. Interest shall be compounded annually at the rate of 7 1/2 percent per annum.

2. Annuity rates shall be determined on the basis of RP2000 combined healthy table set back three years for males and two years for females and uninsured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1402(8), 11:1404(A), and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2188 (August 2013).

### §105. Accumulated Contributions, Rollovers

A. As provided in R.S. 11:1457(C), the following definitions are revised.

*2009 RMDs of a Participant or Beneficiary* — amounts that the participant or beneficiary would have been required to receive as a required minimum distribution under IRC §401(a)(9) for the 2009 distribution calendar year.

*Distributee* —

a. a person who is distributed benefits from the plan and shall include an employee or former employee. In addition:

i. the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC §414(p), are *distributees* with regard to the interest of the spouse or former spouse;

ii. a nonspouse beneficiary as designated by the member.

*Eligible Retirement Plan* —

a. an eligible plan under IRC §457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this plan, an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a), an annuity contract described in IRC §403(b), or a qualified plan described in IRC §401(a), that accepts the distributee's eligible rollover distribution;

b. shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

*Eligible Rollover Distribution* — any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a.i. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary; or

ii. for a specified period of 10 years or more;

b. any distribution to the extent such distributions is required under IRC §401(a)(9);

c. any hardship distribution attributable to elective deferrals;

d. the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and

e. any other distribution(s) that is reasonably expected to total less than \$200 during a year.

#### B. Eligible Retirement Plan

1. Effective for distributions on or after January 1, 2007:

a. eligible retirement plan shall include the individual retirement account or annuity in the name of the deceased participant for the benefit of a nonspouse beneficiary, who receives an eligible rollover distribution from the plan on account of the death of a participant, provided that the individual retirement account or annuity is treated as an inherited IRA and that the minimum distribution rules applicable in the event the IRA owner dies before the entire interest is distributed shall apply to the transferee IRA and the transferee IRA does not provide the beneficiaries with the special rules for surviving spouse beneficiaries;

b. A Roth IRA is an eligible retirement plan with respect to distributions from the Fund that do not consist of designated Roth accounts, so long as the restrictions that apply to a transfer from a traditional IRA (non-Roth) to a Roth IRA are satisfied.

#### C. Eligible Rollover Distribution

1. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.

2. Effective January 1, 2003, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in IRC §408(a) or (b), or to a qualified defined contribution plan described in IRC §401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

3. Effective January 1, 2007, eligible rollover distributions shall include:

a. a distribution to a nonspouse beneficiary on account of the participant's death, so long as any rollover distribution is transferred to an individual retirement account or annuity that is treated as an inherited account of the deceased participant;

b. after-tax contributions held in a plan qualified under IRC §401(a).

4. Effective January 1, 2007, distributions from the plan that do not consist of designated Roth accounts shall be eligible rollover distributions with respect to a Roth IRA and may be rolled over to a Roth IRA, subject to the restrictions that apply to a transfer from a traditional (non-Roth) IRA to a Roth IRA.

5. During 2009, 2009 RMDs shall be treated as eligible rollover distributions for purposes of making available the direct rollover of eligible rollover distributions that include such amount, but not for purposes of withholding federal income taxes on the amount when it is distributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1404(A), R.S. 11:1457(C), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2188 (August 2013).

### Chapter 3. Creditable Service

#### §301. Death Benefits for Qualified Military Service

A. As provided under R.S. 11:1411, the following shall apply:

1. In the case of a death occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in IRC §414(u)), the participant's beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment on account of death.

a. Moreover, the plan will credit the participant's qualified military service as service for vesting purposes, as though the participant had resumed employment under USERRA immediately prior to the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1404(A), R.S. 11:1411, and the provisions of the Administrative Procedure Act, R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

### Chapter 5. Limitation on Payment of Benefits

#### §501. Suspension of Benefits

A. As provided in R.S. 11:1444(D), if a member has commenced to receive distributions under R.S. 11:1444 even though he is still employed with the employer, then such member shall be given the opportunity to elect to suspend such distributions so long as he is still employed. If such member later terminates employment, he shall commence to receive minimum distributions again and shall be entitled to elect the method of receiving such distributions, with his required beginning date to be determined based on the date of his termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1404(A), R.S. 11:1444(D), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

#### §503. Required Beginning Date

A. As provided in R.S. 11:1444(E), any required beginning date occurring in 2009 shall be extended for one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1444(E), R.S. 11:1404(A), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

#### §505. Benefit Limitations

A. As provided under R.S. 11:1458, the following provisions shall apply for limitation years beginning on or after July 1, 2007.

1. Annual Benefit—Maximum Permissible Benefit. The annual benefit, otherwise payable to a participant under the plan, at any time shall not exceed the maximum

permissible benefit. If the benefit the participant would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

2. Adjustment if in Two Defined Benefit Plans. If the participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the participant's annual benefit from all such plans may not exceed the maximum permissible benefit. Where the participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the employer shall limit a participant's benefit in accordance with the terms of the plans.

3. Limits Grandfathered prior to July 1, 2007

a. The following sentence in Clause i of this Subparagraph applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to IRC § 415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in U.S. Treasury Regulations § 1.415(a)-1(g)(4).

i. The application of the provisions of this Part shall not cause the maximum permissible benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007.

AUTHORITY NOTE: Promulgated in accordance R.S. 11:1404(A), R.S. 11:1458, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

## **Chapter 7. Accumulated Contributions**

### **§701. Benefit Limitations**

A. Definitions. For purposes of Chapter 7, the following definitions apply.

*Annual Benefit* — a benefit that is payable annually in the form of a straight life annuity.

*Defined Benefit Dollar Limitation* — effective for limitation years ending after December 31, 2001, \$160,000, automatically adjusted under IRC §415(d), effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity:

a. the new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year;

b. the automatic annual adjustment of the defined benefit dollar limitation under IRC §415(d) shall apply to participants who have had a separation from employment.

B. Annual Benefit Determination

1. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Part.

2. For a participant who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Part as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates.

a. For this purpose, the determination of whether a new annuity starting date has occurred shall be made:

i. without regard to U.S. Treasury Regulations §1.401(a)-20, Q and A-10(d); and

ii. with regard to U.S. Treasury Regulations §1.415(b)1(b)(1)(iii)(B) and (C).

3. The determination of the annual benefit shall take into account Social Security supplements described in IRC §411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to U.S. Treasury Regulations § 1.411(d)-4, Q and A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

C. Actuarial Adjustment. No actuarial adjustment to the benefit shall be made for:

1. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the participant's benefit were paid in another form;

2. benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

3. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to IRC §417(e)(3) and would otherwise satisfy the limitations of this Part, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Part applicable at the annuity starting date, as increased in subsequent years pursuant to IRC §415(d);

a. for this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

D. Actuarial Equivalent—Straight Life Annuity

1. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Subparagraph a of this Paragraph.

a. The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this Subparagraph if the form of the participant's benefit is either:

i. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

ii. an annuity that decreases during the life of the participant merely because of:

(a) the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(b). the cessation or reduction of Social Security supplements or qualified disability payments (as defined in IRC §401(a)(11)).

2. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount:

a. the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

b. 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

3. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

a. the annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; and

b. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1404(A) and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2190 (August 2013).

#### **§703. Rollover of Returned Contributions**

A. As provided in R.S. 11:1445(G):

1. distributee, eligible retirement plan and eligible rollover distribution shall be defined in provisions adopted by the board pursuant to R.S. 11:1457;

2. an eligible rollover distribution shall be transferred in a direct rollover to an eligible retirement plan if so directed by the distributee. The board shall provide distributees with the opportunity to direct such direct rollover.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1404(A), R.S. 11:1445(G), R.S. 11:1457, and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2191 (August 2013).

#### **§705. Repayment of Withdrawn Accumulated Contributions**

A. As provided in R.S. 11:1455(B), payment may be made directly by the member or may be made on the member's behalf:

1. in a single sum payment by an individual retirement account; or

2. annuity; or

3. by a plan qualified under IRC §§401(a), 403(a), 403(b), or 457(g).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1404(A), R.S. 11:1455(B), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2191 (August 2013).

Glenn M. Waguespack  
President

1308#022

### **RULE**

#### **Department of Children and Family Services Economic Stability**

##### **Child Welfare Emergency Assistance Services Program (LAC 67:III.5597)**

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:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5597, Child Welfare Emergency Assistance Services Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, adjustments to Section 5597 Child Welfare Emergency Assistance Services Program are necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

This Rule was made effective by an Emergency Rule dated and effective March 22, 2013.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part III. Economic Stability**

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

#### **Chapter 55. TANF Initiatives**

#### **§5597. Child Welfare Emergency Assistance Services Program**

A. The Child Welfare Emergency Assistance Services Program will provide services to children who are removed from their parents by the courts and are in foster care. These services include case management and planning as performed by DCFS' staff. The types of assistance that meet the emergency situation may include shelter care, foster family care or emergency shelter care including food, clothing and supervision.

B. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

C. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193, R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:67 (January 2013), amended LR 39:2191 (August 2013).

Suzy Sonnier  
Secretary

1308#048

## RULE

### Department of Children and Family Services Economic Stability

#### Recovery of Overpayments and Over-Issuances (LAC 67:III.1503, 2005, 5106, and 5383)

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:III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), Chapter 15, Subchapter B, Section 1503, Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Chapter 19, Subchapter P, Section 2005, Subpart 12, Child Care Assistance Program (CCAP), Chapter 51, Subchapter A, Section 5106, and Subpart 13, Kinship Care Subsidy Program (KCSP), Chapter 53, Subchapter C, Section 5383. Amendment is pursuant to the authority granted to the department by Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, Food and Nutrition Act of 2008, in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR 273.18, and the Child Care and Development Fund (CCDF).

Section 2005, SNAP Claims Against Households, has been amended to change the recovery threshold. The department opts to rely on the standard recovery threshold and cost effectiveness policy established by the Food and Nutrition Service (FNS) in 7 CFR 273.18(e)(2)(ii) when determining whether pursuing a SNAP claim is cost effective.

Section 1503, FITAP Recovery of Overpayments, Section 5106, CCAP Ineligible Payments, and Section 5383, KCSP Recovery of Overpayments, has been amended to change the recovery thresholds to mirror SNAP guidelines for determining whether pursuing a FITAP, CCAP, or KCSP claim is cost effective.

The department considers these amendments necessary to adopt FNS thresholds for recovery of claims against SNAP households in accordance with 7 CFR 273.18, and to change the recovery thresholds for FITAP, KCSP, and CCAP to mirror the SNAP recovery threshold. This will align recovery thresholds in FITAP, SNAP, CCAP, and KCSP, thus making it easier for staff to establish recovery claims by following consistent recovery policy and procedures.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

#### Subpart 2. Family Independence Temporary Assistance Program

#### Chapter 15. General Program Administration

#### Subchapter B. Recovery

#### §1503. Recovery of Overpayments

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$125 or less for non participating households.

B. Action will be taken to recover all claims for participating households and claims which are determined to be the result of intentional program violation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), LR 27:428 (March 2001), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability, LR 39:2192 (August 2013).

#### Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

#### Chapter 19. Certification of Eligible Households

#### Subchapter P. Recovery of Over-Issued SNAP Benefits

#### §2005. Claims Against Households

A. All adult household members are jointly and severally liable for the value of any over-issuance of benefits to the household. This is true regardless of whether the over-issuance resulted from inadvertent error, an administrative error or an intentional program violation.

B. Action will not be taken to recover claims which are \$125 or less for inadvertent household error or an administrative error for non participating households.

This threshold does not apply to claims for participating households, to claims which are determined to be the result of intentional program violation, or to errors which are discovered in a quality control review.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. .97-35,97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272,273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:899 (August 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 24:2326 (December 1998), LR 27:1017 (July 2001), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), amended by the Department of Children and Family Services, Economic Stability, LR 39:2192 (August 2013).

#### Subpart 12. Child Care Assistance Program

#### Chapter 51. Child Care Assistance Program

#### Subchapter A. Administration, Conditions of Eligibility, and Funding

#### §5106. Ineligible Payments

A. All ineligible benefits are subject to action to recover such benefits with the exception of inadvertent household error claims and administrative error claims of \$125 or less for non participating households.

B. Action will be taken to recover all claims for participating households, all claims which are determined to be the result of intentional program violation (IPV), and all claims resulting from errors which are discovered in a quality control review.

C. When a participant is suspected of IPV, appropriate referral and forms shall be submitted to the Fraud and Recovery Section. The Fraud and Recovery Section may then:

1. refer the case for prosecution; or
2. refer the case to the Appeals Bureau for a disqualification hearing if the participant does not sign the waiver of right to an administrative hearing and the facts of the case do not warrant civil or criminal prosecution through the appropriate court systems; or the case was previously referred for prosecution and was declined by the appropriate

legal authority; or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by Fraud and Recovery.

D. If IPV is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the local DCFS office. The local DCFS office will take action to disqualify for the appropriate situations:

1. 12 months for the first violation;
2. 24 months for the second violation; and
3. permanently for the third violation.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2535 (November 2010), amended by the Department for Children and Family Services, Economic Stability, LR 39:2192 (August 2013).

**Subpart 13. Kinship Care Subsidy Program (KCSP)  
Chapter 53. Application, Eligibility, and Furnishing Assistance**

**Subchapter C. Recovery**

**§5383. Recovery of Overpayments**

A. All KCSP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of \$125 or less for non participating households.

B. Action will be taken to recover all claims for participating households and claims which are determined to be the result of intentional program violation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 34:2678 (December 2008), amended by the Department for Children and Family Services, Economic Stability, LR 39:2193 (August 2013).

Suzy Sonnier  
Secretary

1308#049

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 135—Health and Safety  
(LAC 28:CLVII.305 and 307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 135—Health and Safety*. The policy changes are the result of comments from educators and health professionals. Pursuant to R.S. 17:436.3, revisions to Sections 305 and 307 of this Rule are being jointly promulgated by the Board of Nursing and the Board of Elementary and Secondary Education.

**Title 28  
EDUCATION**

**Part CLVII. Bulletin 135—Health and Safety**

**Chapter 3. Health**

**§305. Administration of Medication**

A. - A.1. ...

**B. Written Orders, Appropriate Containers, Labels and Information**

1. Medication shall not be administered to any student without an order from a Louisiana, or adjacent state, licensed physician, dentist, or other authorized healthcare prescriber and it shall include the following information:

- a. the student's name;
- b. the name and signature of the physician, dentist, or other authorized healthcare prescriber;
- c. the physician/dentist/other authorized healthcare prescriber's business address, office phone number, and emergency phone numbers;
- d. the frequency and time of the medication;
- e. the route and dosage of the medication; and
- f. a written statement of the desired effects and the child specific potential of adverse effects.

2. Medication shall be provided to the school by the parent or guardian in the container that meets acceptable pharmaceutical standards and shall include the following information:

- a. - i. ...
- j. physician's, dentist's, or other authorized healthcare prescriber's name.
3. - 3.f. ...

**C. Administration of Medication—General Provisions**

1. - 3. ...

4. Except in Paragraph C.2, only oral medications, inhalants, topical ointments for diaper rash, and emergency medications shall be administered at school by unlicensed personnel.

5. Each student shall be observed by a school employee for a period of 45 minutes following the administration of medication. This observation may occur during instruction time.

6. School medication orders shall be limited to medication which cannot be administered before or after school hours.

D. - G.1.a.v. ...

vi. name of physician, dentist, or other authorized healthcare prescriber;

1.a.vii. - 5.f. ...

**H. Student Confidentiality**

1. All student information shall be kept confidential.

NOTE. Repealed.

I.1. Notwithstanding any provision of law or any rule, regulation, or policy to the contrary, the governing authority of each public elementary and secondary school shall permit the self-administration of medications by a student with asthma or diabetes or the use of auto-injectable epinephrine by a student at risk of anaphylaxis, provided that the student's parent or legal guardian provides the school in which the student is enrolled with the following documentation:

- a. written authorization for the student to carry and self-administer such prescribed medications;
- b. written certification from a licensed medical physician or other authorized prescriber that the student:
  - i. has asthma, diabetes, or is at risk of having anaphylaxis;
  - ii. has received instruction in the proper method of self administration of the student's prescribed medications to treat asthma, diabetes, or anaphylaxis;

c. written treatment plan from the student's licensed medical physician or authorized prescriber for managing asthma, diabetes, or anaphylactic episodes. The treatment plan must be signed by the student, the student's parent or other legal guardian, and the student's licensed medical physician or other authorized prescriber and shall also contain the following information:

i. the name, purpose, and prescribed dosage of the medications to be self-administered;

ii. the time or times the medications are to be regularly administered and under what additional special circumstances the medications are to be administered;

iii. the length of time for which the medications are prescribed;

d. any other documentation required by the governing authority of the public elementary or secondary school.

2. The documentation required by Paragraph 1 of this Subsection shall be kept on file in the office of the school nurse or other designated school official.

3. The governing authority of the public elementary and secondary school shall inform the parent or other legal guardian of the student in writing that the school and its employees shall incur no liability as a result of any injury sustained by the student from the self-administration of medication used to treat asthma, diabetes, or anaphylaxis. The parent or legal guardian of the student shall sign a statement acknowledging that the school shall incur no liability and that the parent or other legal guardian shall indemnify and hold harmless the school and its employees against any claims that may arise relating to the self-administration of medications used to treat asthma or anaphylaxis.

4. For the purposes of the Subsection:

*Auto-Injectable Epinephrine*—a medical device for the immediate self-administration of epinephrine by a person at risk for anaphylaxis.

*Glucagon*—is a hormone that raises the level of glucose in the blood. *Glucagon*, given by injection is used to treat severe hypoglycemia.

*Inhaler*—a medical device that delivers a metered dose of medication to alleviate the symptoms of asthma.

*Insulin Pen*—a pen-like device used to put insulin into the body.

*Insulin Pump*—a computerized device that is programmed to deliver small, steady, doses of insulin.

5. A student who has been granted permission to self-administer medication pursuant to this Subsection shall be allowed to carry and store with the school nurse or other designated school official an inhaler, auto-injectable epinephrine, or insulin at all times.

6. Permission for the self-administration of asthma or diabetes medications or use of auto-injectable epinephrine by a student shall be effective only for the school year in which permission is granted. Permission for self-administration of asthma or diabetes medications or the use of auto-injectable epinephrine by a student shall be granted each subsequent school year, provided all of the requirements of this Subsection are fulfilled.

7. Upon obtaining permission to self-administer asthma or diabetes medication or to use auto-injectable

epinephrine pursuant to this Subsection, a student shall be permitted to possess and self-administer such prescribed medication at any time while on school property or while attending a school sponsored activity.

8. A student who uses any medication permitted pursuant to this Subsection in a manner other than prescribed shall be subject to disciplinary action; however, such disciplinary action shall not limit or restrict such student's immediate access to such prescribed medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1 and R.S. 17:436.1(J).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Board of Nursing, LR 39:1030 (April 2013), amended LR 39:2193 (August 2013).

### §307. Diabetes Management and Treatment

NOTE: This Rule was developed in coordination with the Louisiana State Board of Nursing (LSBN). Any waivers, deletions, additions, amendments, or alterations to this policy shall be approved by both BESE and LSBN.

#### A. Diabetes Treatment Plans

1. - 2. ...

3. The diabetes management plan shall be kept on file in the school in which the child is enrolled and shall include:

a. a detailed evaluation of the student's level of understanding of his condition and his ability to manage his diabetes;

3.b. - 4.d. ...

5. The school nurse will be given not less than 5 school days to develop the individualized healthcare plan (IHP) and shall implement the IHP within 10 school days upon receipt of the diabetes treatment plan.

a. The school nurse must assess the stability of the student's diabetes for the school setting prior to the development of the IHP in order to provide continuity of care in the school setting.

A.6. - B.1. ...

2. The school nurse or the trained unlicensed diabetes care assistant authorized by the school nurse shall provide care to a student with diabetes, or assist a student with the self-care of his diabetes, in accordance with the student's diabetes management and treatment plan and IHP.

3. - 5.c. ...

#### C. Unlicensed Diabetes Care Assistants—General Information

1. The school nurse may utilize a trained unlicensed diabetes care assistant in the treatment and care of a student with diabetes.

2. - 5.a. ...

b. Unlicensed diabetes care assistants shall serve under the supervision of a school nurse for medication administration.

i. Where a school nurse is not physically present, he or she must be available by phone for immediate access to the school.

6. Protocols for administration of medication for the treatment of diabetes shall be consistent with Bulletin 135, §305.

D. - E.3.d. ...

e. administration of medication as ordered by physician, other authorized healthcare prescriber in accordance with school policies, procedures and the student's diabetes management treatment plan;

E.3.f. - 1.5. ...



6. Follow protocols for administration of medication consistent with Bulletin 135, §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Board of Nursing, LR 39:1033 (April 2013), amended LR 39:2194 (August 2013).

Heather Cope  
Executive Director

1308#011

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV. Chapters 1-33)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—The Louisiana Handbook for School Administrators*. The policy changes update current policies, correct technical errors, and provide more local flexibility and autonomy.

#### Title 28

#### EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 1. Foreword

##### §101. Purpose

A. Policies passed by the Board of Elementary and Secondary Education (BESE) govern the operation of public elementary, middle, and secondary schools. *Bulletin 741—Louisiana Handbook for School Administrators*, contains policies for the administration of public schools.

B. The contents of this bulletin have been revised and reorganized for more efficient use as a reference document for district and school administrators. The bulletin has been extensively reviewed by members of BESE, the Louisiana Department of Education (LDE), and a statewide review committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005), amended LR 39:2195 (August 2013).

#### Chapter 3. Operation and Administration

##### §303. General Powers of Local Educational Governing Authorities

A. Each local school board shall determine the number and location of schools to be opened, and the number of teachers and other school personnel to be employed from recommendations made by the local superintendent.

B. Each local school board is authorized to adopt rules and regulations for its own governance that are consistent with law and with the regulations of BESE.

1. Each member of a city and parish school board shall receive a minimum of six hours of training and instruction annually in the school laws of this state, in the laws governing the school boards, and in educational trends, research, and policy. Such training shall also include education policy issues, including but not limited to the

Minimum Foundation Program (MFP) and formula, literacy and numeracy, leadership development, dropout prevention, career and technical education, redesigning high schools, early childhood education, school discipline, and harassment, intimidation, and bullying. Training shall also include instruction in Louisiana Open Meeting Law and the Louisiana Public Bid Law. In an LEA that has one or more schools identified as an academically unacceptable school or a school in need of academic assistance as defined by BESE, at least two of the required hours shall focus on the improvement of schools identified as failing schools as defined by BESE.

2. The training may be received from a postsecondary education institution, the LDE, the local school board central office staff, or the Louisiana School Board Association (LSBA) provided that the instruction and the method for demonstrating attendance are pre-approved by the LSBA or at any conference presented by the National School Boards Association or by the Council of the Great City Schools, provided that verification of attendance by the school board member at the training is obtained.

3. Each school board member's attendance shall be reported by the instructor to the LSBA. Each school board member who completes required instruction shall receive a certificate of completion and a copy of such certificate shall be entered into the minutes of the school board on which the member serves.

4. The superintendent of the school system on which the school board member serves shall be responsible for verifying that any training or instruction received by the school board member as set forth in this Section meets the necessary requirements.

##### 5. Distinguished School Board Member

a. A school board member who has received a certificate of completion for the initial 16 hours of training and instruction and has also received an annual certificate of completion of the required training for three subsequent consecutive years shall receive the designation of "distinguished school board member."

b. LDE shall issue each such member an appropriate certificate attesting to such designation.

c. A member in office on January 1, 2011, who has prior service on the board may receive the designation if he completes 16 hours of training during 2011 and completes the required training for the subsequent three consecutive years.

d. At least annually, the school system superintendent shall transmit to the newspaper which is the official journal of the school board a press release detailing the information for his school board that is posted on the LSBA website relative to training hours and subject matter completed by each school board member and to include in such press release information concerning each member who has been designated a distinguished school board member.

C. - G. ...

H. Each local school board shall develop and adopt rules and policies regarding the dismissal and discipline of school employees including but not limited to the following issues:

1. dismissing teachers at any time a reduction in force is instituted by the school board;

2. dismissing school employees who have not attained tenure;

3. the investigation of employees accused of impermissible corporal punishment or moral offenses involving students;

4. the investigation of any employee in any case in which there is a public announcement by the board that the employee may be disciplined, whether or not there is an accompanying reduction in employee pay; and

5. grievance procedures for teachers and school employees.

I. No city or parish school board shall adopt any policy which forbids or discourages any teacher or other school board employee from reporting directly to any appropriate law enforcement authority any apparent criminal activity by any person involving, or appearing to involve, controlled dangerous substances, or any other apparent illegal activity.

1. No parish or city school board shall adopt any policy that would have the effect of preventing or hindering the response of law enforcement officials on school board property, to reports of illegal activity.

J. Each city and parish school board may enter into voluntary compacts with other LEAs for the purpose of providing multiparish education programs of all kinds in accordance with R.S. 17:100.2.

K. Each city, parish, or other local public school board shall conduct exit interviews for teachers who leave their employ and annually report this information to BESE. The local school board shall use the forms and reporting system developed by BESE for this purpose.

L. No board member shall act in an individual capacity to use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any personnel decision including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee.

M. No board member shall use the authority of his office or position as a member of the school board in a manner intended to interfere with, compel, or coerce any school employee to make any decision concerning benefits, work assignment, or membership in any organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:53, R.S. 17:54, R.S. 17:81, 17:81.2, and 17:81.4-8, R.S. 17:100.2, and R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005), amended LR 35:1474 (August 2009), LR 35:1876 (September 2009), LR 37:1136 (April 2011), LR 39:2195 (August 2013).

### **§307. Philosophy and Purposes**

A. It shall be the responsibility of each LEA and school to formulate a written statement of its philosophy and purposes and/or mission statement. This statement shall give direction to the education program. The philosophy and purposes shall be on a system-wide basis and shall be adapted to meet the needs of each school within the system.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VIII Preamble and R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005), amended LR 39:2196 (August 2013).

### **§311. System Accreditation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1258 (June 2005), repealed LR 39:2196 (August 2013).

### **§313. Special Education Program Monitoring**

A. Each LEA shall participate in a system of special education program monitoring. The LEA shall receive a formal monitoring report. If areas of noncompliance are identified, the LEA shall be required to propose corrective actions that will be undertaken and identify timelines for correction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005), amended LR 39:2196 (August 2013).

### **§315. School Approval**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005), repealed, LR 39:2196 (August 2013).

### **§319. Classification of Established Schools**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:92.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1259 (June 2005), repealed LR 39:2196 (August 2013).

### **§321. Review and Evaluation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, and R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), repealed LR 39:2196 (August 2013).

### **§323. Louisiana Educational Assessment Program**

A. Each LEA shall participate in the Louisiana Educational Assessment Program (LEAP).

B. Performance standards for LEAP and Graduation Exit Examination (GEE) and end-of-course tests should be comparable to the rigor of national achievement tests including but not limited to the National Assessment of Educational Progress (NAEP) performance standards.

C. LEAP alternate assessment participation criteria shall be used by IEP teams to document that a student meets the criteria to participate in LEAP Alternate Assessment.

D. Schools shall ensure that student participation is documented on the LEAP alternate assessment participation criteria form as approved by BESE.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), amended LR 39:2196 (August 2013).

### **§325. Kindergarten and Prekindergarten**

A. - B.1. ...

C. Each LEA shall require that every child entering kindergarten for the first time be given a nationally recognized readiness screening. The results of this screening shall be used in placement and for planning instruction. The pupil progression plan for each LEA shall include criterion for placement.

1. The parent or guardian of each child shall be advised of the nature of the child's level of readiness.

2. Each LEA shall report to the LDE screening results by school on an annual basis by December 1 of each year.

D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.8, R.S. 17:151.3, and R.S. 17:391.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1260 (June 2005), amended LR 39:2196 (August 2013).

### §329. Remedial Education Programs

A. - B. ...

C. Each LEA shall participate in the LDE's remedial education program evaluation.

NOTE: Refer to *Bulletin 1566—Pupil Progression Policies and Procedures* and the addendum and Bulletin 1566, regulations for the implementation of remedial education programs related to the LEAP/CRT Program, regular school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:394 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:2197 (August 2013).

### §331. Special Education Programs

A. Each LEA shall provide special education programs for all exceptional students.

B. Education for exceptional students shall be maintained in the least restrictive environment appropriate to the students' needs.

C. Each LEA shall ensure that the placement of exceptional students in special education services and settings is determined by the student's IEP placement committee and occurs only with the written consent of the parent(s) or legal guardian for the initial IEP.

D. Children who have been receiving special education in another state or in another school system within Louisiana, and have an IEP in effect from the previous system shall be provided FAPE until the following conditions occur:

1. if the student is transferring from another state, eligibility is determined, and a new IEP is developed, if appropriate;

2. if the student is transferring from within Louisiana, the current IEP is adopted or a new IEP is developed.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941, et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:2197 (August 2013).

### §333. Instructional Time

A. Each LEA shall adopt a calendar that includes a school year that is in accordance with applicable state regulations and includes a minimum of 63,720 minutes of instructional time.

1. Instructional time shall include the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies. Instructional time does not include such things as:

- a. recess;
- b. lunch;
- c. change of class time; and
- d. parent-teacher conferences.

B. Each LEA may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time or the equivalent number of minutes.

C. General election day shall be designated by each LEA as a holiday every four years for the presidential election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:2197 (August 2013).

### §335. Program Evaluation for State Board Approval Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, R.S. 17:391.6, and R.S. 17:391.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), repealed LR 39:2197 (August 2013).

### §337. Written Policies and Procedures

A. Each LEA shall have written policies governing all school activities as they relate to students, the instructional program, staff, buildings, services, and the curriculum.

B. Repealed.

C. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. the establishment of the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;

2. provision of special educational and related services to exceptional students in accordance with the IEP for the entirety of the school year;

3. - 4. ....

5. the exclusion of students with communicable diseases and their readmittance following their recovery (refer to *Bulletin 135—Health and Safety*, §309);

6. the control of communicable problems such as lice and scabies (refer to *Bulletin 135—Health and Safety*, §309);

7. the care of sick or injured students, including notification of parents, in cases of emergencies that occur while students are under the jurisdiction of the school;

8. the administration of medication in schools (refer to *Bulletin 135—Health and Safety*, §309);

9. - 23. ...

24. grade appropriate classroom management training for teachers, principals, and other appropriated school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development;

25. a schedule for the retention and disposition of records. The schedule shall be approved by State Archives as required by R.S. 44:411;

26. appropriate responses to the behavior of students with exceptionalities that may require immediate intervention (see for reference guidelines for the use of seclusion rooms and restraint of students with exceptionalities);

27. an employee arrested for any of the crimes listed in R.S. 15:587.1, any other sexual offense affecting minors, or any justified complaint of child abuse or neglect;

28. the reporting of school bus operator arrests for violations of R.S. 14:98, 98.1, or any other law or ordinance

that prohibits operating a vehicle while under the influence of alcohol or any abused substance or controlled dangerous substance set forth in the schedules provided in R.S. 40:964; and

29. in the student code of conduct, the prohibition against bullying as defined in §1303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S.17:240, and R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013).

### §341. Homeless Children and Youth

A. Each LEA shall establish a written policy to provide for the placement in school and for the education of any child temporarily residing within the jurisdiction of the board who has no permanent address, who has been abandoned by his parents, or who is in foster care pursuant to placement through the Department of Children and Family Services. However, this does not require the enrollment of any child not permitted by another school system to attend school, either permanently or temporarily, as a result of disciplinary action(s).

B. - J. ...

K. Each LEA that receives a homeless direct grant award from the SEA Office of Education for Homeless Children and Youth (EHCY) must coordinate the services provided and designate a homeless liaison to carry out certain mandates.

L. Each LEA shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth. Further, LEAs must adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:238 and 20 USCS 6311, 6312, 6313, and 6315.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005), amended LR 39:2198 (August 2013).

### §343. Unsafe Schools

A. Students who are the victims of violent crime shall be afforded the opportunity to transfer to a different school.

1. A student at a public elementary school, middle school or high school who becomes a victim of a crime of violence as defined by R.S. 14:2, while on school property, on a school bus or at a school-sponsored event, shall be given the option to transfer to a public school within the school district in which the student's current school is located, which offers instruction at the student's grade level and which is not persistently dangerous, if there is such a school within that school district.

A.2. - B.5.c.viii. ...

6. The LDE shall annually reassess persistently dangerous schools. If a school no longer meets the criteria for a persistently dangerous school, taking into account the most recent completed school year and the school year immediately preceding the most recent completed school year, the school will not be deemed persistently dangerous.

C. Nothing herein shall prohibit LEAs from entering into agreements with one another allowing students who become the victims of crimes of violence while on school property, on a school bus, or at a school-sponsored event or who are

attending persistently dangerous schools in one school district the option to transfer to a school, which is not persistently dangerous, in another school district. A student who has been assigned to a particular school, such as an alternative school or a special school, by court order shall not have the option to transfer.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 7912.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1263 (June 2005), amended LR 36:1498 (July 2010), LR 39:2198 (August 2013).

### §345. Requesting Waivers of BESE Policy

A. The superintendent of the LEA requesting deviation of any standard in this bulletin shall submit documentation to the LDE, justifying the request.

B. Technical assistance for meeting the policy as stated in this bulletin shall be provided to the LEA by the LDE.

C. When a deviation cannot be corrected by technical assistance, the LDE may consider a waiver of policy using the following guidelines.

#### 1. Waivers for Class Size

a. The LDE may waive class size requirements up to two students over the maximum allowable upon receipt of the following:

i. a letter from the local superintendent detailing each class that exceeds the class size;

ii. documentation from the principal and the superintendent showing how efforts have been made to comply with standards; and

iii. class sizes above the limit of two will go directly to the appropriate board committee with an executive recommendation from the LDE.

#### 2. Course Requirement Waivers

a. The LDE may waive up to one Carnegie unit required for graduation in the following circumstances:

i. waivers for students who transfer to Louisiana from another state during their senior year, are on course to graduate in their previous state of residence, and are unable to schedule and complete the needed course; and

ii. waivers due to administrative errors.

b. In each situation, the district must provide:

i. a letter of justification from the local superintendent; and

ii. a copy of the student's transcript.

D. Requests that do not meet BESE-approved guidelines for an administrative action shall be submitted by the state superintendent of education to the appropriate BESE committee with an executive recommendation for action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.2(B)(5), R.S. 17:24.10(C)(1)(c), R.S. 17:151(B)(2), R.S. 17:192(B)(2), R.S.17:274(D), and R.S. 17:416.2(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1264 (June 2005), amended LR 39:2198 (August 2013).

### §349. Complaint Procedures

A. These complaint procedures are established for resolving complaints which may be filed against the LDE or an agency pursuant to provisions of the Elementary and Secondary Education Act of 1965, 20 U.S.C. §6301 et seq., (ESEA).

B. The following definitions apply to this Section.

*Agency*—a local educational agency, educational service agency, consortium of those agencies, or entity.

*Applicable Program*—any of the following ESEA programs for which the LDE has submitted a consolidated state plan or consolidated state application under the ESEA, which may include:

- a. title I, part A (improving basic programs operated by local educational agencies);
- b. title I, part B, subpart 3 (even start family literacy programs);
- c. title I, part C (education of migratory children);
- d. title I, part D (prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk);
- e. title I, part F (comprehensive school reform);
- f. title II, part A (teaching and principal training and recruitment fund);
- g. title II, part D (enhancing education through technology);
- h. title III, part A (english language acquisition, language enhancement, and academic achievement);
- i. title IV, part A, subpart 1 (safe and drug-free schools and communities);
- j. title IV, part A, subpart 2 (community service grants);
- k. title IV, part B (twenty-first century community learning centers);
- l. title V, part A (innovative programs);
- m. title VI, part A, subpart 1, sections 6111 and 6112 (improving academic achievement programs); and
- n. title VI, part B, subpart 2 (rural and low-income schools program).

*Covered Program*—a federal program not defined as an applicable program for which the LDE is required to provide a complaint procedure and for which a complaint procedure is not otherwise provided by rule of the LDE.

C. This Subsection sets forth the specific procedures for resolving complaints that are filed pursuant to the ESEA.

1. LDE will receive complaints from individuals or organizations alleging:

- a. a violation of law in the administration of an applicable program; or
- b. a violation of a federal statute or regulation that applies to a covered program for which federal law permits the filing of a complaint with the LDE.

2. The complaint must be in writing and must include:

- a. a statement that LDE or an agency has violated a requirement of a federal statute or regulation that applies to an applicable program or a covered program;
- b. the facts on which the statement is based, including the name of the agency or agencies, and the specific requirement alleged to have been violated;
- c. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed;
- d. the signature and contact information for the complainant or his or her designated representative; and
- e. the complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received by the LDE.

3. Upon receipt of a complaint against an agency that meets the requirements of §349.C.2, the LDE will acknowledge receipt of the complaint in writing and provide

written notice to the agency against which the violation has been alleged. The LDE will provide the agency with the opportunity to resolve the complaint without a finding, with the participation and agreement of the complainant.

4. If the complaint concerns a violation by the LDE and meets the applicable requirements of §349.C.2, the state superintendent of education will appoint an impartial person(s) to conduct an investigation and resolve the complaint. The person(s) so appointed will acknowledge receipt of the complaint in writing.

5. All complaints must be resolved within 60 days of the date the LDE receives the complaint. Within that 60-day timeline, the LDE, or the impartial investigator when a complaint is filed against the LDE, will:

- a. carry out an independent on-site investigation, if the LDE or impartial investigator determines that an investigation is necessary;
- b. give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- c. provide the LDE or agency with the opportunity to respond to the complaint, including, at the discretion of the agency, a proposal to resolve the complaint;
- d. review all relevant information and make an independent determination as to whether the LDE or agency is violating a requirement of the ESEA; and
- e. issue a written decision to the complainant that addresses each allegation in the complaint and contains:

- i. findings of fact and conclusions;
- ii. the reasons for the final decision; and
- iii. a statement of the complainant's right to request the secretary of the U.S. Department of Education (secretary) to review the final decision, at the secretary's discretion.

6. Complaints regarding participation by private school children must be appealed to the secretary no later than 30 days after the decision is issued. An appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

7. Written decisions on complaints alleging violations by LDE will be provided to BESE.

8. Timelines for LDE's final decision may be extended if exceptional circumstances exist with respect to a particular complaint.

9. The LDE's final decision must be implemented and include, if needed:

- a. technical assistance activities;
- b. negotiations; and
- c. corrective actions to achieve compliance.

10. Nothing herein shall preclude the availability of an informal resolution between the complainant and the LDE or agency, nor shall anything herein preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

11. LDE will implement a process for tracking complaints received by LDE to facilitate timely investigation and resolution.

12. LDE will maintain a complaint log which includes the following components:

- a. date of receipt of complaint;

- b. name of complainant;
- c. name of agency, or LDE if complaint is against LDE;
- d. resolution, including technical assistance activities and corrective action plan, if needed;
- e. date of resolution;
- f. date of follow-up on technical assistance activities and corrective action plan, if assigned, and the results of that activity.

D. An agency will disseminate, free of charge, adequate information about the complaint procedures to parents of students, and appropriate private school offices or representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 20 U.S.C. §6320, 20 U.S.C. §7883(a), 20 U.S.C. §7844(a)(3)(C), 34 CFR § 106.8(b), and 34 CFR §§299.11-299.12.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1613 (August 2007), amended LR 39:2198 (August 2013).

## **Chapter 5. Personnel**

### **§501. Criminal Background Checks**

A. Each LEA shall establish by regulation, requirements and procedures consistent with R.S. 17:15 and R.S. 15:587.1, through which it may request information from the Louisiana Bureau of Criminal Identification and Information necessary to ascertain whether an employee, or applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, or janitor, or as a temporary, part-time, or permanent employee of any kind, including any person employed to provide cafeteria, transportation, or janitorial or maintenance services by any person or entity that contracts with a school or school system to pervade such services, has been arrested for, convicted of, or pled nolo contendere to, any criminal offense.

1. The regulation shall include the requirement and the procedure for the submission of a person's fingerprints on a form acceptable to the bureau.

2. The request for information necessary to determine whether a person has been arrested for, convicted of, or pled nolo contendere to, any criminal offense must be on a form prepared by the bureau and must be signed by a responsible officer or official of the LEA making the request.

3. It must include a statement signed by the person about whom the request is made which gives permission for such information to be released and must include the person's fingerprints in a form acceptable to the bureau.

4. A person whose fingerprints have been submitted to the bureau may be temporarily hired pending the report from the bureau.

B. No person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be hired by a public elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as a temporary, part-time, or permanent employee of any kind, including any person employed to provide cafeteria, transportation, or janitorial or maintenance services by any person or entity that contracts with a school or school system to provide such services unless approved in writing by a district judge of the parish and the district attorney or, if employed on an emergency basis, unless approved in writing by the superintendent of the school system.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of the statement of approval to the state superintendent of education.

C. The LEA shall dismiss any teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or school employee is convicted of, or pleads nolo contendere to, any crime listed in R.S. 15:587.1(C), except R.S. 14:74.

D. An LEA may reemploy a teacher or other school employee who has been convicted of, or pled nolo contendere to, a crime listed in R.S. 15:587.1(C), only upon written approval of the district judge of the parish and the district attorney or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

2. Not later than 30 days after its being placed on file by the school, the school principal shall submit a copy of any such statement of approval or written documentation from the court to the state superintendent of education.

E. A teacher or other school employee, upon final conviction or plea of guilty or nolo contendere to any criminal offense, excluding traffic offenses, shall report the fact of the conviction or plea to his employer within 48 hours of the conviction or plea.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15 and R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:443 (March 2009), amended LR 35:1473 (August 2009), LR 39:2200 (August 2013).

### **§503. Staff Organization**

A. The professional staff of the local LEA's central office shall be organized with assigned roles, responsibilities and authority to provide a structure for implementing local school policies.

B. Each LEA shall be required to employ certified personnel as required by state/federal law:

1. superintendent;
2. special education supervisor;
3. title IX coordinator;
4. child welfare and attendance supervisor;
5. school nurse;
6. school food services supervisor;
7. business manager.

NOTE: See *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*, §1301.

C. The LEAs shall assign principals to schools as appropriate.

D. For LEAs in any parish having a population of at least 300,000 persons, a full-time social worker shall be employed in each school which has been identified as a failing school.

E. There shall be alcohol, drug, and substance abuse counselors who regularly visit every secondary school and elementary school at a maximum ratio of four schools to one counselor, for the purpose of counseling students who have been identified as having an alcohol, drug, or substance abuse problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15, R.S. 17:28, R.S. 17:29, R.S. 17:54, R.S. 17:81, R.S. 17:84.2, R.S. 17:228, R.S. 17:403, R.S. 17:1947(F), and 7 CFR 210.3(a).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:2352 (November 2007), LR 39:2200 (August 2013).

### **§505. Certification of Personnel**

A. To be eligible legally for teaching, administrative, supervisory, or other professional services in the public schools of Louisiana, personnel shall hold a valid Louisiana certificate appropriate to the services rendered or shall receive annual approval in accordance with provisions allowed by BESE.

NOTE: Refer to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

B. In the event that an LEA in Louisiana, through its locally authorized governing board, chooses to select a superintendent who does not meet the eligibility requirements necessary to obtain certification as a superintendent, such LEA may appoint the candidate, provided that:

1. the district appoints a chief academic officer whose primary and substantial job description shall govern the academics of the district including curriculum and instruction;
2. the chief academic officer possesses a valid state-issued teaching certificate;
3. the chief academic officer also meets all criteria required of a superintendent set forth in existing BESE policy; and
4. the chief academic officer is appointed no later than 120 days after the appointment of the superintendent candidate.

C. Teachers in core academic subject areas (English, reading/language arts, mathematics, science, foreign languages, arts, and social studies) must meet the highly qualified requirements in order to teach in any core academic subject.

1. For the non-core academic subject areas, full-time secondary certified teachers in schools including grades 6-12 (or any combination thereof) may be allowed to teach a maximum of two periods in one subject out of their field of certification if they have earned 12 hours in that subject. Secondary certified teachers shall not teach below the sixth grade level.

D. Each LEA shall ensure that supervision is provided for school psychologists, school social workers, speech therapists, and any other personnel not certified or licensed to practice their respective discipline without supervision and who are provisionally employed contingent upon such specific documented supervision in accordance with policy in Bulletin 746.

E. Any employee of any LEA whose duty is to transport students in any city or parish activity in a school bus shall meet LDE requirements.

NOTE: Refer to *Bulletin 1191—Louisiana School Transportation Specifications and Procedures*.

F. Each LEA shall establish standards for certification of special education paraprofessionals and shall issue permits based on these standards.

G. Teachers certified at the secondary level shall be allowed to teach at the sixth grade level in their respective areas of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:7.1, R.S. 17:24.10, R.S. 17:81, R.S. 17:491, 17:497.2, and R.S. 17:1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:2353 (November 2007), amended LR 38:1224 (May 2012), LR 39:2201 (August 2013).

### **§507. District Educational Leadership Induction Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1266 (June 2005), amended LR 32:1416 (August 2006), LR 38:40 (January 2012), repealed LR 39:2201 (August 2013).

### **§509. Personnel Evaluation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1266 (June 2005), repealed LR 39:2201 (August 2013).

### **§511. Personnel Evaluation Plan Dissemination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), repealed LR 39:2201 (August 2013).

### **§513. Professional Staff Development**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.2 and R.S. 17:3881 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), amended LR 35:1475 (August 2009), repealed LR 39:2201 (August 2013).

### **§515. Teachers' Retirement System—Part-Time, Seasonal or Temporary Classroom Teacher**

A. R.S. 11:162(C) provides that membership in the Teachers' Retirement System of Louisiana (TRSL) shall be required of part-time, seasonal, or temporary employees, as defined in 26 CFR 31.3121(b)(7)-2, who are classroom teachers and who have or earn five or more years of creditable service in the TRSL.

B. Classroom Teacher

1. For the purposes of R.S. 11:162(C):

*Classroom Teacher—*

i. an employee of an LEA under the control of BESE or any educational institution supported by and under the control of BESE, or any LEA:

(a) whose job description and assigned duties include the instruction of pupils in courses in traditional or nontraditional classroom situations for which daily pupil attendance figures for the school system are kept; and

(b) who is classified under object code 112, as provided in Bulletin 1929, *Louisiana Administrative Code* Title 28, Part XLI §901.B.1.b, or is performing the



functions, on a substitute basis, of an individual classified under object code 112;

ii. instruction of pupils, as used in Subclause i.(a) of this definition, shall include activities dealing directly with the interaction between teachers and pupils. Instruction may be provided for students in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. Instruction may also be provided through some other approved medium such as television, radio, telephone, and correspondence;

iii. classroom teachers shall include, but not be limited to:

- (a). traditional subject area;
- (b). special education;
- (c). library media;
- (d). resource;
- (e). itinerant;
- (f). music;
- (g). band;
- (h). chorus;
- (i). physical education;
- (j). home economics;
- (k). agriculture;
- (l). industrial arts;
- (m). computer science; and
- (n). business teachers.

iv. a teacher's status as an "employee," as used in Clause i of this definition, shall be consistent with the employment classification made by his or her employing agency, pursuant to applicable law.

#### C. Rehired Retirees

1. Any retired member of TRSL, other than a retired teacher as defined in R.S. 11:710, who returns to active service covered by TRSL, shall have retirement benefits suspended for the duration of reemployment.

2. In order for a person who qualifies as a retired teacher because he teaches in a shortage area to receive benefits during the period of her or his reemployment, the superintendent and the personnel director of the employing school must certify to BESE and the TRSL board of trustees that a shortage of teachers exists in the area in which the retired teacher was hired to teach. For speech therapists, speech pathologists, and audiologists in a shortage area, the employer is required to certify that a shortage of such persons exists.

3. Prior to certification, for any full-time teaching position, the employer shall advertise the position twice in the official journal of the school's governing authority and non-retirees shall be given hiring preference over retirees, unless fewer than three applicants have applied for the position.

4. LEAs shall adhere to all applicable state regulations regarding membership in TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:162(C) and R.S. 11:710.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1267 (June 2005), amended LR 37:1140 (April 2011), LR 39:2201 (August 2013).

### **§521. Physical Abuse of Teachers and School Employees by Students**

A. LEAs shall adopt rules and regulations to implement the following requirements regarding the physical abuse of

public school teachers and other school employees by students.

1. LEAs shall keep an accurate record of incidents of such abuse.

2. LEAs shall provide appropriate equipment to protect teachers and other school employees from such abuse.

3. Support services shall be provided to teachers and other school employees which afford them the opportunity to discuss the stress caused by such abuse.

4. Any teacher or other school employee who has been the victim of such abuse shall be provided the opportunity to seek another position for which the teacher is certified within the same parish in which the teacher will not have contact with the student(s) involved, provided that there is another position available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1138 (April 2011), amended LR 39:2202 (August 2013).

## **Chapter 7. Records and Reports**

### **§703. Student Records**

A. Each school shall keep records for the registration and attendance of students and shall maintain an up-to-date permanent cumulative record of individual students showing personal data and progress through school.

1. Student cumulative records shall continually be updated and, when applicable, contain the following:

a. name, gender, social security number or a state-assigned identification number, date of admission, and date of birth;

b. name and address of parents, legal guardian, and/or next of kin;

c. language or means of communication, spoken or understood;

d. a cumulative record of the student's progress through the curriculum;

e. health history;

f. student grades;

g. attendance records;

h. results of vision and hearing screening;

i. all immunizations given in accordance with the requirements of the Office of Public Health (OPH), Louisiana Department of Health and Hospitals (DHH) recorded on a cumulative health record;

j. scores on statewide assessments and scores on local testing programs and screening instruments necessary to document the local criteria for promotion;

k. information (or reasons) for student placement, including promotion, retention, and/or remediation and acceleration;

l. information on the outcome of student participation in remedial and alternative programs; and

m. a copy of the letter informing the parent of either the placement of the student in or the removal of the student from a remedial education program.

2. The following are applicable to students eligible under IDEA or section 504:

a. records of parent/teacher conferences prior to referral to pupil appraisal;

b. results of all educational screening information;

c. educational interventions and their results;



- d. multi-disciplinary evaluation reports;
- e. a copy of the IEP, including least restrictive environment justification;
- f. a copy of the individualized accommodation program (IAP);
- g. a copy of the parent's written consent for the student to be moved from an alternative to a regular placement program;
- h. documentation of contact with school building level committee prior to referral to pupil appraisal;
- i. access sheet for special education confidentiality.

B. Each teacher shall be provided with a recording system in which the roster of each class taught shall be maintained and on which all data used to determine student progress shall be recorded.

C. Student records shall be reviewed regularly, and results shall be used for instructional planning, student counseling, and placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170, R.S. 17:182, R.S. 17:232, R.S. 17:391.3, R.S. 17:391.4, R.S. 17:400, R.S. 17:1944, and R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 39:2202 (August 2013).

#### **§705. Student Academic Records and Reports**

A. A report of each student's progress in school shall be provided to parents or guardians at intervals designated by the LEA and shall contain a report of progress made by the student in each subject or area.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with USCS 1232g, R.S. 17:112, R.S. 17:177, and R.S. 17:391.7(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005), amended LR 39:2203 (August 2013).

#### **§707. Evaluation of Transfer Students' Records**

A. A student transferred from an approved school, in- or out-of-state or foreign school, shall be allowed credit for work completed in the previous school. When a student transfers from one school to another, a properly certified transcript, showing the student's record of attendance, achievement, immunization, and the units of credit earned, shall be required.

1. Records, including evaluation information for exceptional students transferring from another system, shall be reviewed by pupil appraisal and approved by the supervisor of special education before the student is enrolled in a special education program.

2. Students in grades five and nine transferring to the public school system from any in-state nonpublic school (state-approved and -unapproved), or home schooling program, or Louisiana resident transferring from any out-of-state school, shall be required to pass the English language arts and mathematics components portions of the state-developed LEAP placement test.

B. Local school officials from any state-approved school receiving a student from an unapproved school, in- or out-of-state, or approved home study programs, shall determine the placement and/or credits for the student through screening, evaluations, and/or examinations.

1. The principal and/or superintendent may require the student to take an examination on any subject matter for which credit is claimed.

2. The school issuing the high school diploma shall account for all credits required for graduation, and its records will show when and where the credit was earned.

3. Students in grades five and nine transferring to the public school system from any in-state nonpublic school (state-approved and -unapproved), or home schooling program, or Louisiana resident transferring from any out-of-state school, shall be required to pass the English language arts and mathematics components of the state-developed LEAP 21 placement test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1269 (June 2005), amended LR 39: 2203 (August 2013).

#### **§709. Transfer of Student Records**

A. The principal shall provide for the transfer of the education records, including special education records if applicable, of any current or former student at the school upon the written request of any authorized person on behalf of a public or nonpublic elementary or secondary school within or outside of the state of Louisiana, where the student has become enrolled or is seeking enrollment.

1. The transfer of such records, whether by mail or otherwise, shall occur not later than 10 business days from the date of receipt of the written request.

2. If a student has been expelled, the transferred records shall include the dates of the expulsion and the reasons for which the student was expelled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112 and R.S. 17:221.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 36:1224 (June 2010), LR 39:2203 (August 2013).

#### **§711. Textbook Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8, R.S. 17:8.1, and R.S. 17:93.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), repealed LR 39:2203 (August 2013).

#### **§713. Attendance Records**

A. The attendance of all school students shall be checked each school day and at the beginning of each class period and shall be verified by the teacher keeping such records which shall be open to inspection by the supervisor of child welfare and attendance, or duly authorized representative, at all reasonable times. All schools shall immediately report to the visiting teacher, or the supervisor of child welfare and attendance, any unexplained, unexcused, or illegal absence, or habitual tardiness.

B. No public elementary or secondary school student who has not been emancipated by judicial decree or by marriage shall be permitted for any reason to leave school during the school day on his or her own authority.

1. The school principal or the principal's designee shall make all reasonable efforts to notify the parent or other person responsible for the student's school attendance of any such prohibited absence by a student.

2. For the purposes of notification as required by this section, a parent or other person responsible for a student's school attendance may designate in writing with the school principal one or more alternative contact persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232 and R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 39:2203 (August 2013).

### **§715. System and School Reports**

A. Reports required by the LDE and BESE shall be made on appropriate forms, shall contain accurate information, and shall be returned by the specified date.

1. The certification form shall be signed by the superintendent verifying that all data submitted are accurate.

B. Each local superintendent shall keep a record of all business transacted by him as superintendent.

C. On dates specified by the LDE, the local superintendent shall forward the information required for the completion of the annual financial and statistical report to the LDE.

1. Schools shall furnish information required for the completion of the Annual Financial and Statistical Report on report forms supplied by the LEA.

D. Each LEA shall provide reports as required by the LDE for the review of the status and needs for additional construction and/or renovation of the physical facilities of the physical facilities of the LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.5, R.S. 17:92, and R.S. 17:93.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 39:2204 (August 2013).

### **§717. Reports of High School Credit**

A. A finalized list of graduates shall be submitted by the state-approved high school accompanied by the assurance statement signed by both the principal and the superintendent of the LEA in order to receive diplomas.

1. Prior to February 15 for mid-term graduates and prior to June 15 for spring graduates, a certificate of high school credits for each graduate shall be submitted by each state-approved high school as required.

2. A certificate of high school credits (transcript) shall be submitted by the state-approved high school in order for a diploma to be issued to those students graduating or exiting at times other than mid-term and spring.

3. Upon receipt of the finalized list of graduates, the LDE will issue the diplomas.

B. Prior to the date of graduation or options program completion, the LDE shall have the authority to determine the issuance of a diploma or an options program skill certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(11).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1270 (June 2005), amended LR 39:2204 (August 2013).

### **§719. Reports to the Supervisors of Child Welfare and Attendance**

A. The principals, or administrators, and the teachers of all schools shall report the names, birth dates, race, parents, and residence of all students in attendance at their schools or classes in writing to the central office within 30 days after the beginning of the school term or session, and at such other times as may be required by BESE or the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), LR amended LR 39:2204 (August 2013).

## **Chapter 9. Scheduling**

### **§901. Scheduling**

A. The purpose of scheduling within available time frames and staff resources shall be to meet the educational needs of students.

B. Prior to student scheduling each year, each middle, junior, or high school shall provide the parent/guardian/legal custodian with a listing of course offerings including the course choice catalog, the content of each course, and high school graduation requirements where appropriate.

1. By the end of the eighth grade, each student shall develop, with the input of his family, an individual graduation plan. Such a plan shall include a sequence of courses that is consistent with the student's stated goals for one year after graduation.

2. Each student's individual graduation plan shall be reviewed annually thereafter by the student, parents, and school advisor and revised as needed.

3. Every middle, junior, or high school shall require that the parent/guardian/legal custodian sign his/her child's schedule form and the individual graduation plan for students in grades 8-12.

C. Student scheduling shall be individually appropriate and flexible to allow entry into and exit from courses and course sequences that are available for meeting curricular requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175 and R.S. 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013).

### **§903. Exceptional Students**

A. Exceptional students shall not be placed in educational settings that exceed the maximum pupil/teacher ratio or the three-year chronological age span. The age span requirement does not apply to programs for secondary-aged students (students aged 14-21).

B. Special class, separate schooling, or other removal of students with disabilities from the regular educational environment shall occur only when the nature or severity of the individual's needs is such that education in regular class with the use of supplementary aids and services cannot be achieved satisfactorily.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptional Act*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151 and R.S. 17:1946.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 39:2204 (August 2013).

### **§907. Secondary—Class Times and Carnegie Credit**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 38:1224 (May 2012), repealed LR 39:2204 (August 2013).

## §909. Length of School Day Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), repealed LR 39:2205 (August 2013).

## §913. Class Size and Ratios

A. The maximum enrollment in a class or section in grades K-3 shall be 26 students and in grades 4-12, 33 students, except in certain activity types of classes in which the teaching approach and the materials and equipment are appropriate for large groups.

B. No teachers at the secondary level shall instruct more than 750 student hours per week, except those who teach the activity classes.

1. When a number of staff members are involved in a cooperative teaching project, the amount of each person's involved time may be counted in computing the individual teacher's load.

C. The maximum class size for health and physical education in grades K-8 and in physical education I and II shall be 40. No class may be combined with physical education I or II if the total number of students taught is more than 40.

D. The system-wide, student classroom teacher ratio in grades K-3 shall be a maximum of 20 students to one classroom teacher.

1. An LEA may request a waiver of this requirement from the state superintendent of education provided that the teacher has demonstrated effectiveness as defined by BESE in *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* for pupil/teacher ratios for special education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151 and R.S. 17:174.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 39:2205 (August 2013).

## §915. Student Activities

A. Each school shall have a well-balanced and effectively-administered student activity program.

B. Extracurricular activities shall not be scheduled during instructional time.

C. Extracurricular services and activities shall be offered to all exceptional students in a manner that allows them equal opportunity to participate in services and activities.

D. No school shall permit the existence or functioning of any fraternity, sorority, or secret society.

E. The scholastic rule of the Louisiana High School Athletic Association (LHSAA) shall be adhered to by all high schools under its jurisdiction.

NOTE: See for reference the LHSAA website at [www.lhsaa.org](http://www.lhsaa.org).

F. All athletic contests shall be scheduled after school hours.

1. When possible, no instructional time should be missed by student athletes when traveling to athletic events.

2. If teams are allowed to be released from school early to attend these events, released time should be kept to a minimum and the LHSAA's regular season released-time

plan must be followed when determining the released time to be used.

3. All class work missed by student athletes while attending athletic events must be made up as soon as possible in the same manner that would be required of other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 39:2205 (August 2013).

## Chapter 11. Student Services

### §1103. Compulsory Attendance

A. - B.1.c. ...

2. If a student is under the age of 18, the parent or guardian may withdraw the student from high school if that student is accepted into a National Guard Youth Challenge Program in this state.

3. - 4.c. ...

C. Students shall be expected to be in attendance every student-activity day scheduled by the LEA.

D. A student is considered to be in attendance when he or she is physically present at a school site or is participating in an authorized school activity and is under the supervision of authorized personnel.

1. This definition for attendance would extend to students who are homebound, assigned to and participating in drug rehabilitation programs that contain a state-approved education component, participating in school-authorized field trips, or taking a state-approved virtual course.

a. Half-Day Attendance. Students are considered to be in attendance for one-half day when they:

i. are physically present at a school site or participating in authorized school activity; and

ii. are under the supervision of authorized personnel for more than 25 percent but not more than half (26-50 percent) of the students' instructional day.

b. Whole-Day Attendance. Students are considered to be in attendance for a whole day when they:

i. are physically present at a school site or are participating in an authorized school activity; and

ii. are under the supervision of authorized personnel for more than 50 percent (51-100 percent) of the students' instructional day.

E. A student who is enrolled in regular or special education and who, as a result of healthcare treatment, physical illness, accident, or the treatment thereof, is temporarily unable to attend school, shall be provided instructional services in the home or hospital environment.

1. Homebound instruction shall be provided by a properly certified teacher on the eleventh school day following an absence of more than 10 consecutive school days for a qualifying illness.

a. After a student has been absent for 10 days for one of the above identified reasons, the student shall be referred for review by the SBLC, to determine need for referral for section 504 services if the student has not previously been identified as a student with a disability.

2. Homebound instruction, at a minimum, shall be provided in the core academic subjects:

a. English;

b. mathematics;

- c. science; and
- d. social studies.

3. A minimum of four hours of homebound instruction shall be provided per week, unless the student's health as determined by a physician requires less.

a. Consideration shall be given to the individual need for services beyond the core academic subjects for students with disabilities.

4. Homebound services may be provided via a consultative model (properly certified regular or special education teacher when appropriate, consults with the homebound teacher delivering instruction) for students needing such services less than 20 days during a school year.

F. Elementary students shall be in attendance a minimum of 60,120 minutes (equivalent to 167 six-hour days) a school year. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 30,060 minutes (equivalent to 83.5 six-hour school days), per semester or 60,120 minutes (equivalent to 167 six-hour school days) a school year for schools not operating on a semester basis.

1. Students in danger of failing due to excessive absences may be allowed to make up missed time in class sessions held outside the regular class time. The make-up sessions must be completed before the end of the current semester and all other policies must be met.

G. Repealed.

H. - M. ...

N. If a student is absent from school for 2 or more days within a 30-day period under a contract or employment arrangement to render artistic or creative services for compensation as set forth in the Child Performer Trust Act (R.S. 51:2131 et seq.) the employer shall employ a certified teacher, beginning on the second day of employment, to provide a minimum of three education instruction hours per day to the student pursuant to the lesson plans for the particular student as provided by the principal and teachers at the student's school. There must be a teacher to student ratio of one teacher for every 10 students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112, R.S. 17:221.3-4, R.S. 17:226.1, and R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012), LR 38:1399 (June, 2012), LR 39:2205 (August 2013).

### §1105. Types of Absences

A. - B. ....

C. *Exempted, Excused Absences*—absences which are not considered for purposes of truancy and which are not considered when determining whether or not a student is eligible to make up work and tests, receive credit for work completed, and receive credit for a course and/or school year completed.

D. - E. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:226, R.S. 17:235.2, and R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 36:482 (March 2010), LR 37:1127 (April 2011), LR 39:2206 (August 2013).

### §1107. Entrance Requirements

A.1. All students, upon entering school for the first time, shall present:

a. an official birth certificate (Children born in Louisiana will be given a 15-day grace period to secure a copy of their birth record. Children born out of this state will be given 30 days' grace in which to produce a copy of their birth record.);

b. a record of immunization; and

c. an official Social Security card. If no Social Security number is available, the student shall be assigned a state identification number.

2. In cases where birth certificates and/or birth verification forms cannot be obtained, the school principal may accept other positive proof of age, race, and parentage available. It shall be left to the discretion of the local superintendent of schools, subject to the authority of the school board, as to whether or not a child shall continue in school upon failure to comply herewith.

B. Every child, as a prerequisite to enrollment in any first grade of a public school, shall meet one of the following criteria:

1. have attended a full-day public or private kindergarten for a full academic year; or

2. have satisfactorily passed academic readiness screening administered by the LEA at the time of enrollment for first grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3, 17:170, and 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 39:2206 (August 2013).

### §1109. Assignment and Transfer of Students

A. - B.1. ....

2. If not specifically contrary to the provisions of an order of a court of competent jurisdiction providing for the assignment of students within the LEA, a city or parish school board in Caddo or St. Tammany Parish, shall assign a student to attend any public high school requested by a parent or other person responsible for the student's school attendance when the requested school has space available and is of a suitable grade level, and the student resides not more than 2 miles from such school. A school board shall not be required to provide transportation to any student enrolled in high school pursuant to the provisions of this Paragraph.

NOTE: Refer to §303.D.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:105, R.S. 17:221.2, and R.S. 17:221.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1126 (April 2011), LR 39:2206 (August 2013).

### §1111. Age Requirements

A. Special education shall be provided for exceptional students aged 3-21, unless they have received a diploma. The LEA shall have the option to provide preschool special education to students with disabilities aged 0-2 years.

B. Each LEA shall provide for and offer full-day kindergarten instruction to each eligible child in every school having a first grade or in a parish kindergarten center.

C. The minimum age for kindergarten shall be one year younger than the age required for that child to enter first grade.

1. Each local educational governing authority, by rule, may provide, for a child of younger age, to enter kindergarten provided that such child has been evaluated and identified as gifted in accordance with the regulations of the DOE for such evaluation. Any child admitted to kindergarten pursuant to this Paragraph shall be eligible to enter first grade upon successful completion of kindergarten, provided all other applicable entrance requirements have been fulfilled.

2. Any child transferring into the first grade of a public school from out-of-state and not meeting the requirements herein for kindergarten attendance, shall be required to satisfactorily pass an academic readiness screening administered by the LEA prior to the time of enrollment for the first grade.

3. Any child not able to meet the kindergarten attendance requirements of this Section due to illness or extraordinary, extenuating circumstances as determined by the local educational governing authority, shall be required to satisfactorily pass an academic readiness screening administered by the LEA prior to the time of enrollment for the first grade.

4. Every parent, tutor, or other person having control or charge of a child who is eligible to attend full-day kindergarten, as a prerequisite to enrollment in any first grade of a public school shall send such child to attend public or private full-day kindergarten when such instruction is offered in the public schools, or ensure that such child is administered an academic readiness screening prior to the time established for the child to enter first grade.

D. The age at which a child may enter the first grade of any public school at the beginning of the public school session shall be six years on or before September 30 of the calendar year in which the school year begins.

1. Any local educational governing authority in a parish having a population of at least 450,000 may adopt, by rule, and enforce ages for entrance into first grade in the schools in its system which vary from the provisions of this Section. All children admitted into school as a result of a rule adopted pursuant to such a rule shall be counted in reports submitted for funding under the MFP and money allocated pursuant to such program shall be based on the report which includes such children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1275 (June 2005), amended LR 39:2206 (August 2013).

#### **§1115. Statements of Compliance**

A. Each LEA shall require each student in grades 4-12 in each school under the control of the LEA annually to sign a statement of compliance committing to do at least all of the following:

1. attend school daily, except when absent for reasons due to illness or other excused absence;
2. arrive at school on time each day;
3. demonstrate significant effort toward completing all required homework assignments; and
4. follow school and classroom rules.

B. Each parent or guardian of each student in grades 4-12 in any public school in the state annually shall sign a statement of compliance committing to do at least all of the following:

1. ensure that his/her child attends school daily except for excused absences;
2. ensure that his/her child arrives at school on time each day;
3. ensure that his/her child completes all required homework assignments; and
4. attend all required parent and teacher or principal conferences.

C. Prior to the signing by any student of the statement of compliance as required in this Section, each homeroom teacher or teacher designated by the principal shall, on the first day of school each school year, provide information to and answer any questions from students in grades 4-12 relative to the statement of compliance.

D. Each LEA shall adopt rules and regulations necessary for the implementation of this Section. Such rules and regulations shall include the following:

1. appropriate action to be taken against any student or parent or guardian who fails to comply with the signed statement as required in this Section; and
2. guidelines for homeroom teachers to provide information and answer questions about the compliance statements, including a specified amount of time necessary for teachers to accomplish such requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:235.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), amended LR 39:2207 (August 2013).

#### **§1117. Child Welfare and Attendance**

A. Supervisors of child welfare and attendance and home-school coordinators shall give written notice, either in person or by registered mail, to the parent or guardian of a student within the compulsory school attendance age, when no valid reason is found for a student's nonenrollment or unexcused absence from school, requiring enrollment or attendance within three days from the date of notice.

B. Supervisors of child welfare and attendance shall receive the cooperation of all teachers and principals in the parish or city in which they are appointed to serve.

C. Each school shall, upon the request of the LEA where the school is located, state whether any individual student is enrolled in such school and whether such pupil is fulfilling the compulsory attendance requirements.

D. Any student who is a juvenile and who is habitually absent from school or is habitually tardy shall be reported by supervisors of child welfare and attendance to the family or juvenile court of the parish or city as a truant child, pursuant to the provisions of chapter 2 of title VII of the *Louisiana Children's Code* relative to families in need of services, there to be dealt with in such manner as the court may determine, either by placing the truant in a home or in a public or private institution where school may be provided for the child, or otherwise.

E. A student shall be considered habitually absent or habitually tardy when either condition continues to exist after all reasonable efforts by any school personnel, truancy officer, or other law enforcement personnel have failed to

correct the condition after the fifth unexcused absence or fifth unexcused occurrence of being tardy within any school semester. The parent or legal guardian of a student shall enforce the attendance of the student at the school to which the student is assigned.

F. In those districts participating in an interagency agreement to operate a truancy and assessment service center and to the extent specified in said agreement, school boards and their systems in general will assist child welfare and attendance officers in creating student background data, including attendance records, unexcused absences, conduct violations, discipline records, report cards, and transcripts as permitted by law and families in need of services personnel will work in partnership with the child welfare and attendance officers to monitor client progress, file all petitions in the cases of noncompliance of the plan for court appearance, and coordinate other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232, R.S. 17:233, and R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), amended LR 34:608 (April 2008), LR 35:1475 (August 2009), LR 39:2207 (August 2013).

#### **§1119. Health Screening**

NOTE: §1119 has been moved to *Bulletin 135—Health and Safety*, §301.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:2112.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), repealed LR 39:2208 (August 2013).

#### **§1121. Immunizations**

NOTE: §1121 has been moved to *Bulletin 135—Health and Safety*, §303.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:170.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005), amended LR 33:429 (March 2007), LR 35:1476 (August 2009), LR 35:2322 (November 2009), LR 37:2134 (July 2011), repealed LR 39:2208 (August 2013).

#### **§1123. Educational Screening and Evaluation**

A. All LEAs shall ensure that appropriate educational screening and evaluation services are provided to students.

B. Every student in public school in grades kindergarten-third shall be screened, at least once, for the existence of impediments to a successful school experience. No student shall be screened if his parent or guardian objects to such screening.

1. Such impediments shall include:

- dyslexia and related disorders;
- attention deficit disorder; and
- social and environmental factors that put a student "at risk."

2. Students in need of services and/or assistance shall have it provided to them in accordance with R.S. 17:7(11).

3. The screenings shall be done directly by elementary school counselors, pupil appraisal personnel, teachers, or any other professional employees of the LEA who have been appropriately trained, all of whom shall operate as advocates for the students identified as needing services or assistance. No screenings shall be done by persons who have not been trained to do such screenings.

C. - F. ...

G. Re-evaluation of exceptional students shall occur at least every three years unless the parent and the public agency agree that a re-evaluation is not necessary.

NOTE: Refer to Bulletin 135—Health and Safety, §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11) and R.S. 17:392.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1277 (June 2005), amended LR 39:2208 (August 2013).

#### **§1124. Parental Involvement for Exceptional Students [Formerly §1903]**

A. Each LEA shall take whatever action is necessary to ensure parental participation as required by federal, state, and local guidelines in the development of the IEP for exceptional students.

B. Communication from the school to the parent shall be as follows:

- written;
- in language understandable to the general public;
- in the native language of the parent or other mode of communication used by the parent when possible; and/or
- communicated orally (when necessary) in the native language or other mode of communication so that the parent understands the content of such communication.

C. Full and effective notice communicated from the LEA to the parent of an exceptional student or a student thought to be exceptional shall also include the following:

- a full explanation of all the procedural safeguards available to the parents, including confidentiality requirements;
- a description of the proposed (or refused) action, an explanation of the reasons for such actions, and a description of any options that were considered and rejected;
- a description of each evaluation procedure, type of test, record or report used as a basis for the action, and any other relevant factors; and
- identification of the employee or employees of the school system who may be contacted.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), amended LR 39:2208 (August 2013).

#### **§1127. Preventive Programs**

A. Preventive programs are those programs aimed at identifying and eliminating problems that impede student learning.

B. Each LEA shall have a program on the prevention of crime and disruptive behavior.

C. Each LEA may develop and implement, after submission to BESE for approval, a plan for the modification of approved course content and structure to produce interdisciplinary courses for purposes of enhancing dropout prevention programs.

D. Teachers, school counselors, principals and certain other school administrators in public elementary and secondary schools shall receive two hours of annual in-service training in suicide prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:13.1, R.S. 17:283, and R.S. 17:403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005), amended LR 39:2208 (August 2013).

### §1129. Administration of Medication

NOTE: §1129 has been moved to *Bulletin 135—Health and Safety*, §305.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1 and R.S. 17:436.1(J).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005), amended LR 35:1476 (August 2009), LR 36:481 (March 2010), repealed LR 39:2209 (August 2013).

### §1131. Communicable Disease Control

NOTE: §1131 has been moved to *Bulletin 135—Health and Safety*, §309.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15), R.S. 17:170, R.S. 17:437, R.S. 17:1941, and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1279 (June 2005), repealed LR 39:2209 (August 2013).

### §1137. Student Identification Badges

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:179.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), repealed LR 39:2209 (August 2013).

### §1141. Electronic Telecommunication Devices

A. - B. ...

C. Each LEA shall develop, adopt, and implement policies, procedures and practices applicable to school employees relative to electronic communications by an employee at a school to a student enrolled at that school.

1. The policies, procedures, and practices shall:

a. define electronic communication and recognize the multiple means available for making such a communication, including specified forms of both direct communication and indirect communication;

b. require that all electronic communication by an employee to a student relative to the educational services provided use a means of communication provided by the LEA;

c. prohibit the use of the means of provided by the LEA to electronically communicate with a student that is not related to the education services provided, except communication with an immediate family member if such communication is specifically authorized by the LEA;

d. specify that the occurrence of any electronic communication made by an employee to a student, or vice versa, using a means other than one provided by the LEA shall be reported by the employee:

i. provides that records of any such reported communication be maintained by the LEA for one year;

e. specify that it is a duty of LEA employees to comply with the policies and provide that a failure to comply may result in disciplinary action and may constitute willful neglect of duty;

f. establish and provide for the imposition of consequences for a violation of the policies, including but not limited to termination of employment;

g. provide a means for the timely reporting and investigation of an alleged failure to comply with policies and for concluding such an investigation and resolving the allegation;

h. provide a means whereby any alleged failure to comply with the policies that also may be a violation of state or federal law is reported to the proper authorities;

i. provide a means to assure that all LEA employees are informed fully of the policies, procedures, and practices, and the possible consequences for a failure to comply;

j. provide a means to assure that a parent or guardian is fully informed of the policies, procedures, and practices;

k. provide a means for a parent or guardian to request that the child not be contacted through electronic communication by any school employee unless the purpose of such communication is directly related to the child's educational services and is sent and received by more than one student at the school; and

1. authorize a school principal or designee to permit an employee to contact one or more specifically identified students and be contacted by such students using a means other than one provided by the school provided the employee has requested and received permission from the principal or designee to do so and has provided documentation in writing to the principal or designee the purpose for such contact.

i. Such purposes may include, but need not be limited to:

(a) necessary communications relative to extracurricular activities;

(b) student athletic activities;

(c) community-based youth activities; and

(d) faith-based activities.

2. No school board or board member shall be civilly liable for any electronic communication that is prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81 and R.S. 17:239

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 37:1134 (April 2011), LR 39:2209 (August 2013).

### §1145. School Health Forms

NOTE: §1145 has been moved to *Bulletin 135—Health and Safety*, §311.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.12, 20 USCS 6301 et seq., and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2606 (December 2007), repealed LR 39:2209 (August 2013).

### §1147. Non-Complex Health Procedures

NOTE: §1147 has been moved to *Bulletin 135—Health and Safety*, §313.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436(A)(2) and (E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:482 (March 2010), repealed LR 39:2209 (August 2013).

### §1149. Student Biometric Information

A. *Biometric Information*—any noninvasive electronic measurement and evaluation of any physical characteristics that are attributable to a single person, including:

1. fingerprint characteristics;

2. eye characteristics;

3. hand characteristics;
4. vocal characteristics;
5. facial characteristics; and
6. any other physical characteristics used to electronically identify that person with a high degree of certainty.

B. Any LEA that collects such information shall develop, adopt, and implement policies that govern the collection and use of such information that, at a minimum shall:

1. require written permission from the student's parent or other legal guardian, or the student if he or she is age 18 or older, prior to the collection of any biometric information. It requires a form created for the express purpose of obtaining the required permission and requires that the granting of permission shall not be included as a part of any form used for enrollment purposes or other form required by the school's governing authority for any other purpose;

2. provide that any biometric information collected from a student shall be used only for identification or fraud prevention purposes;

3. ensure that a student's biometric information shall not be disclosed to a third party without the written permission of the student's parent or other legal guardian, or the student if he or she is age 18 or older, unless the disclosure is required by court order;

4. provide for the secure storage, transmission, and protection of all biometric information from unauthorized disclosure;

5. encrypt student biometric information using an algorithmic process which transforms data into a form in which there is a low probability of assigning meaning to such information without use of a confidential process or key;

6. ensure that the use of a student's biometric information is discontinued upon:

- a. the student's graduation or withdrawal from school; or

- b. receipt of a written request to discontinue use of such information from the student's parent or other legal guardian, or the student if he or she is age 18 or older;

7. provide that all biometric information collected from a student be destroyed within 30 days after use of such information is discontinued;

8. provide that a student shall not be refused or denied any services due to the failure to provide written consent and that the collection of student biometric information must comply with all applicable state and federal law and requirements, including the federal Family Educational Rights Privacy Act of 1974 (FERPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1139 (April 2011), amended LR 39:2209 (August 2013).

## **Chapter 13. Discipline**

### **§1301. Disciplinary Regulations**

A. - F. ...

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for ten days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the

recommendation of the student's teacher. A student who is suspended for more than ten days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

1. The number of school days a student may be suspended shall not exceed the number of school days remaining in the school year.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224, R.S. 17:416, and 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:1132, 1133 (April 2011), LR 39:2210 (August 2013).

### **§1304. Classroom Management Training for School Staff**

**[Formerly §1302]**

A. The school master plans for improving behavior and discipline required of LEAs shall make provision for pre-service and ongoing grade-appropriate classroom management training for teachers, principals, and other appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

B. LEAs shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1380 (May 2011), amended LR 39:2210 (August 2013).

### **§1305. Reasons for Suspension**

**[Formerly §1303]**

A. School principals may suspend from school any student, including an exceptional student, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;
2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;
3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;
4. using unchaste or profane language;
5. immoral or vicious practices;
6. conduct or habits injurious to his/her associates;
7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;
8. disturbing the school and habitually violating the rules;



9. cutting, defacing, or injuring any part of public school buildings;

10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;

11. possessing firearms, knives, or other implements that can be used as weapons;

12. throwing missiles on the school grounds;

13. instigating or participating in fights while under school supervision;

14. violating traffic and safety regulations;

15. leaving the school premises without permission or his/her classroom or detention room without permission;

16. habitual tardiness or absenteeism; and

17. committing any other serious offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005), amended LR 39:2210 (August 2013).

### **§1306. Due Process for Suspensions [Formerly §1305]**

A. Prior to any suspension, the school principal or the principal's designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal's designee, shall contact by telephone at the telephone number shown on the pupil's registration card or send a certified letter at the address shown on the pupil's registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.

2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.

3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and/or supervisor of child welfare and attendance or designee shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion of the time of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005), amended LR 39:2211 (August 2013).

### **§1307. Reasons for Expulsions**

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1103, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board; such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority;

4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);

5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).

6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school-approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law that has been

obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 39:2211 (August 2013).

### **§1313. Discipline for Students with Disabilities**

A. If a school district removes a student with a disability from the student's current educational placement for 10 school days in a school year, consecutively or cumulatively, regardless of the circumstances, beginning on the eleventh day, students must continue to receive educational services to enable the student to continue participating in the general education curriculum, to progress toward meeting the goals set out in the IEP, and to receive behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:2212 (August 2013).

### **§1315. Corporal Punishment**

A. Each LEA shall have discretion in the use of corporal punishment. In those cases in which an LEA decides to use corporal punishment, the LEA shall adopt such rules and regulations as it deems necessary to implement and control any form of corporal punishment in the schools under its jurisdiction.

B. Each LEA shall adopt a policy establishing procedures for the investigation of employees accused of impermissible corporal punishment.

C. Each LEA shall collect and report corporal punishment data according to procedures established by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6, R.S. 17:223, and R.S. 17:416.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:2212 (August 2013).

### **§1317. Search and Seizure**

A. Any teacher, principal, school security guard, or administrator may search any building, desk, locker, area, or school grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005), amended LR 39:2212 (August 2013).

## **Chapter 17. Instructional Support**

### **§1703. Textbooks**

A. Each school shall provide instructional materials for each student and shall have proper procedures for selection, storage, and preservation of such materials.

B. State funds appropriated through the MFP may be used to buy books on the state-adopted textbook lists and

academically related ancillary materials or computer hardware according to the state guidelines.

1. The annual appropriation for the purchase of instructional materials and supplies (state-approved textbooks) is defined in the MFP appropriation bill on a per-pupil amount. In order to facilitate the purchase and receipt of these textbooks each year, LEAs are required to submit state textbook orders to the publisher's depository, centrally located within the state, between March 15 and May 15.

2. LEAs may use state MFP dollars for the purchase of non-adopted instructional materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8 and R.S. 17:351 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005), amended LR 37:1141 (April 2011), LR 38:2365 (September 2012), LR 39:2212 (August 2013).

## **Chapter 19. Community Relations**

### **§1901. School-Community Relations Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:251 and R.S. 17:406.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), repealed LR 39:2212 (August 2013).

### **§1903. Parental Involvement**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), repealed LR 39:2212 (August 2013).

## **Chapter 21. Support Services**

### **§2101. Transportation**

A. The transportation program shall be safe, adequate, and suitable to the needs of the students and the community served while complying with the standards of the LDE. Refer to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*, and applicable laws.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), amended LR 39:2212 (August 2013).

### **§2103. School Food Service**

A. A recognized school of high school grade or under shall be eligible to participate in the school food service programs administered by the LDE, provided that requirements set forth in the agreements with the local educational governing authority are met.

B. Reimbursement shall be made only to schools operating under an agreement between the LEA or other governing authority and the LDE.

1. Agreements shall be signed by the designated representative of each LEA or other governing authority.

C. Participating schools shall adhere to the conditions of the agreement and all applicable federal and state laws and United States Department of Agriculture (USDA) regulations and policies governing the USDA Child Nutrition Programs under the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:82 and R.S. 17:191 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1287 (June 2005), amended LR 38:3135 (December 2012), LR 39:2212 (August 2013).

**Chapter 23. Curriculum and Instruction**

**Subchapter A. Standards and Curricula**

**§2301. Standards and Curricula**

A. Each LEA will provide instruction aligned to BESE-approved standards.

B. The Louisiana content standards shall be subject to review and revision to maintain rigor and high expectations for teaching and learning. Such review of each content area shall occur at least once every seven years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 31:3070 (December 2005), LR 33:429 (March 2007), LR 39:2213 (August 2013).

**§2302. Uniform Grading Policy**

A. LEAs shall use the following uniform grading system for students enrolled in all grades K-12 for which letter grades are used.

Grading Scale for Regular Courses	
Grade	Percentage
A	100-93
B	92-85
C	84-75
D	74-67
F	66-0

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(31)(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2390 (August 2011), amended LR 39:2213 (August 2013).

**§2303. Planning and Instruction**

A. Course content shall meet state and local guidelines relative to unbiased treatment of race, sex, roles, religions, ethnic origins, and political beliefs.

B. Each school's instructional program shall be characterized by well-defined instructional objectives and systematic planning by teachers.

C. Planning by teachers for content, classroom instruction, and local assessment shall reflect the state's content standards.

D. The instructional program shall reflect the selection and use of varied types of learning materials and experiences, and the adaptation of organizational and instructional procedures to provide for individual student needs.

E. The instructional program shall reflect the use of varied evaluative instruments and procedures.

F. Teaching strategies and techniques shall be adjusted to accommodate the types of learners served and their individual learning styles.

G. Each school's educational program shall provide for individual differences of students.

H. Assessment of student performance shall be conducted in each course or instructional level, and mastery of concepts and skills shall be verified.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution Art. VIII Preamble and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 39:2213 (August 2013).

**§2304. Science Education**

A. BESE shall, upon request of an LEA, allow and assist teachers and school administrators to create and foster an environment that promotes critical thinking skills, logical analysis, and open and objective discussion of concepts, laws, principles, and scientific theories.

1. Such assistance shall include support and guidance for teachers regarding effective ways to understand, analyze, critique, and objectively review concepts, laws, principles, and scientific theories.

2. Any LEA may request such assistance by contacting the LDE.

B. Teachers shall teach the state-approved science standards, and the standard textbook supplied by the LEA.

1. The teacher may then use supplemental textbooks and other instructional materials as permitted by the LEA unless otherwise prohibited by BESE.

C. Classroom instruction and materials shall not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

D. BESE shall determine which supplemental materials shall be prohibited from use in science classes in public schools according to the procedure below.

1. Any Louisiana citizen may challenge materials used by an LEA by submitting a complaint to the LDE for consideration by BESE. The complaint should contain the reasons for the challenge and cite evidence to substantiate the challenge.

2. The LDE will notify the LEA using the supplementary material that the complaint has been filed.

3. The LDE will conduct a meeting allowing the complainant, the LEA, and any interested parties adequate time to present their arguments and information and to offer rebuttals.

4. The LDE will make a recommendation to BESE based on the following criteria.

a. The supplemental materials must be grade-level appropriate.

b. The information contained in the supplemental materials must be scientifically sound and supported by empirical evidence.

c. The materials shall not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

E. The following procedure shall be followed for complaints filed about supplemental materials used in a science classroom.

1. Any Louisiana citizen may challenge materials used by an LEA by submitting a complaint to the LDE for consideration by BESE. The complaint should contain the reasons for the challenge and cite evidence to substantiate the challenge. The complaint should be sent to the director of curriculum standards.

2. The LDE will notify the LEA using the supplementary material that the complaint has been filed and will provide the LEA with a copy of the complaint. The LDE will request from the LEA a copy of the supplementary materials in question.

3. The LDE shall have the opportunity to appoint two reviewers of the materials. The challenger, the LEA, and the publisher (if any) shall each have the opportunity to appoint one reviewer of the materials. The LDE will provide the reviewers with copies of the supplementary materials and the complaint. The reviewers should be experts who are capable of determining if the materials are grade-level appropriate, if the materials are scientifically sound and supported by empirical evidence, and if the materials do not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

4. The LDE will determine a time and location for a meeting. The LDE will notify the LEA, the complainant, and the reviewers of the date, time, and location. The LEA and the complainant may bring others with them to the meeting.

5. At the meeting, the LEA and the complainant and/or the representatives of each side will explain their positions. The reviewers may ask questions. All reviewers will complete a form indicating that the materials do or do not violate each of the following provisions and include explanations for their recommendations.

a. The supplementary materials are grade-level appropriate.

b. The information contained in the supplementary materials are scientifically sound and supported by empirical evidence.

c. The materials shall not promote any religious doctrine, promote discrimination for or against a particular set of religious beliefs, or promote discrimination for or against religion or non-religion.

6. The LDE will forward the reports of the reviewers to BESE. The LDE may elect to make its own recommendation. The LDE will notify the challenger, the LEA, and the publisher of the date and time when the recommendations will be presented to BESE for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:285.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1476 (August 2009), amended LR 36:483 (March 2010), LR 39:2213 (August 2013).

### **§2305. Ancillary Areas of Instruction**

A. Each LEA may develop a character education philosophy and implementation plan consistent with its locally developed curriculum.

B. - E. ...

F. Each LEA shall include in the curriculum a program of substance abuse prevention, to include informational, effective, and counseling strategies, and information designed to reduce the likelihood that students shall injure themselves or others through the misuse and abuse of chemical substances.

1. The substance abuse programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

2. Elementary schools shall provide a minimum of 16 contact hours of substance abuse prevention education each school year. Instruction shall be provided within a comprehensive school health program.

3. Secondary schools shall provide a minimum of 8 contact hours of substance abuse prevention education each

school year for grades 10-12 and 16 hours for grade 9. Instruction shall be provided within a comprehensive school health program.

4. The substance abuse programs and curricula shall also include procedures for identifying students who exhibit signs of misuse or abuse of such substances and procedures for referral for counseling or treatment.

G. Each school shall hold an educational program pertaining to the United States Constitution on Constitution Day, September 17, of each year. The purpose of the program is to commemorate the September 17, 1787 signing of the Constitution. When September 17 falls on a Saturday, Sunday, or holiday, the Constitution Day program shall be held during the preceding or following week.

H. Each LEA shall provide age- and grade-appropriate classroom instruction regarding internet and cell phone safety.

1. The LDE will identify and list appropriate resources on the LDE website.

2. The instruction shall be integrated into an existing course and shall include but not be limited to the following topics:

a. the safe and responsible use of social networking websites, chat rooms, electronic mail, bulletin boards, instant messaging, and other means of electronic communication;

b. risks of transmitting personal information;

c. recognizing, avoiding, and reporting solicitations by sexual predators;

d. recognizing and reporting illegal activities and communications;

e. recognizing and reporting harassment and cyberbullying;

f. recognizing and avoiding unsolicited or deceptive communications; and

g. copyright laws on written materials, photographs, music, and video.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154, R.S. 17:261 et seq., R.S. 17:280, R.S. 17:281 et seq., R.S.17:404, R.S. 17:405 et seq., and 36 USCS §106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013).

### **§2307. Literacy Screening**

A. Each LEA shall require that every child enrolled in kindergarten-third grade be given a BESE-approved literacy screening. The results of this screening shall be used to plan instruction and provide appropriate and timely intervention. The results of the screening will also provide information required by R.S. 17:182, student reading skills; requirements; reports.

1. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA shall provide an alternate assessment recommended by the LDE.

2. Each LEA shall report to the LDE screening results by child within the timeframes and according to the guidance established by the LDE.

3. For grades 1-3, the school should use the prior year's latest screening level to begin appropriate intervention until the new screening level is determined.

4. Screening should be used to guide instruction and intervention.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:1224 (May 2012), LR 39:2214 (August 2013).

### **§2309. Curriculum for Exceptional Students**

A. Schools and LEAs shall require the development of an IEP including educational placement for each student determined to be exceptional and in need of special education and related services.

B. Each school and LEA shall include on each IEP all special education and related services necessary to accomplish comparability of educational opportunity between exceptional students and students who are not exceptional.

C. Special education students shall be allowed to earn Carnegie units when possible.

1. The Carnegie units shall be granted by regular or special education teachers certified in the subject matter areas which they are teaching.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and *Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 39:2215 (August 2013).

### **§2313. Elementary Program of Studies**

A. Elementary schools shall adhere to the curricular and time requirements established by the LDE and approved by BESE.

B. Schools and LEAs providing prekindergarten programs shall offer a curriculum that is developmentally appropriate and informal in nature with a balance of both teacher-directed and student-initiated activities.

NOTE: Refer to *Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year-Old Children*.

1. Prekindergarten programs for exceptional students shall offer a curriculum:

- a. that is developmentally sequenced based on reliable research;
- b. that offers a plan for continuous evaluation; and
- c. that offers balanced experiences in pre-academic/academic skills, communication skills, social-emotional skills, self-help skills and motor skills, in accordance with an IEP.

C. The kindergarten shall be informal in nature with teacher-directed and student-initiated activities; it shall be planned to meet the developmental needs of young students.

D. Elementary Minimum Time Requirements

1. The elementary grades shall provide a foundation in fundamentals of the language arts, mathematics, social studies, science, health, physical education, and cultural arts.

2. Each grade level, grades one through eight, shall provide instruction aligned to state-approved standards.

3. Elementary schools shall offer an articulated foreign language program for 30 minutes daily in grades four-six, and 150 minutes per week in grades seven and eight.

NOTE: Refer to a guide for administrators of elementary level second language and immersion programs in Louisiana schools on the LDE website.

a. If an LEA does not have a program for foreign language instruction in grades 1-12, a program shall be required upon presentation of a petition requesting the instruction of a particular foreign language. The superintendent of the LEA shall determine the required number of signatures needed.

b. For identified special education students, the IEP committee shall determine the student’s eligibility to receive foreign language instruction.

E. Each public elementary school that includes any of the grades kindergarten-eight shall provide at least 30 minutes of quality, moderate to vigorous, organized physical activity each day for all students.

1. The LEA shall report to the LDE on compliance no later than October 1.

F. Each public elementary school shall provide 60 minutes of instruction in the performing arts and 60 minutes of instruction in the visual arts each school week for students in kindergarten-grade eight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(26), R.S. 17:17.1, R.S. 17: 24.8, R.S. 17:81, R.S. 17:154-154.1, and R.S. 17:261 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 33:2353 (November 2007), LR 36:1225 (June 2010), LR 37:1135 (April 2011), LR 39:2215 (August 2013).

### **§2314. Carnegie Credit and Credit Flexibility**

A. LEAs may permit students to earn Carnegie credit as middle school and high school students in two ways:

1. by passing a course in which the student is enrolled and meeting instructional time requirements, as set forth below; or
2. by demonstrating proficiency as set forth below.

B. When awarding credit based on instructional time, LEAs shall require a minimum of 7,965 minutes for one Carnegie credit. In order to grant one-half Carnegie credit, LEAs shall require a minimum of 3,983 minutes.

C. When awarding Carnegie credit based on demonstrated proficiency, LEAs must inform the LDE of the following on behalf of any student or group of students:

1. the name of the examination used to measure proficiency, if nationally recognized, or
2. a copy of the examination used to measure proficiency, if locally developed or not nationally recognized and the score required to demonstrate proficiency; or
3. a listing of requirements to demonstrate proficiency through portfolio submissions.

D. Proficiency in a course with a state-administered end-of-course exam must be demonstrated using the end-of-course exam.

E. The LDE may require revisions of assessments in order to ensure that they adequately measure proficiency.

F. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year proficiency was demonstrated, P (pass) and the unit of credit earned entered on their transcript.

1. LEAs shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2215 (August 2013).

**§2315. Adding Electives to the Program of Studies- Middle and Secondary**

A. An LEA shall develop a process for approving elective courses. This process shall ensure alignment with the standards-based initiatives, compliance with current BESE policy, and all laws and regulations pertaining to students with disabilities.

1. Electives shall enhance, expand, and/or refine the core curriculum. Elective courses shall not replace, duplicate, or significantly overlap the content of core curriculum or other approved electives.

2. Electives shall meet specific curricular goals of the districts.

3. Electives shall include challenging content that require students to extend the knowledge and skills acquired through the core curriculum.

4. Electives shall provide a variety of activities and hands-on learning experiences that accommodate different learning styles.

5. Electives shall include appropriate accommodations for addressing specific instructional and assessment needs of students with disabilities, students who are linguistically and/or culturally diverse, and students who are gifted and talented.

6. Electives shall incorporate assessment strategies that support statewide assessments.

B. Each LEA shall maintain records of all approved electives.

C. LDE reserves the authority to require LEAs to submit documentation regarding the course content, approval process and/or course evaluation of any approved elective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:281 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 39:2216 (August 2013).

**§2317. High Schools**

A. - E. ...

F. Each LEA shall develop an early graduation program allowing students to accelerate their academic progress, complete all state graduation requirements, and receive a high school diploma in less than four years.

1. The early graduation program may include distance education (§2326), dual enrollment (§2327), and Carnegie credit earned in middle school.

2. LEAs shall not have any policies or requirements that would prevent students from graduating in less than four years.

G. - J.4 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:154, R.S. 17:1944, and R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:2216 (August 2013).

**§2321. Carnegie Credit for Middle School Students**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 33:2601 (December 2007), LR 34:609 (April 2008), LR 34:2031 (October 2008), LR 35:443

(March 2009), LR 35:2319 (November 2009), repromulgated LR 36:59 (January 2010), amended LR 36:2260 (October 2010), LR 37:2129 (July 2011), LR 37:3199 (November 2011), repealed LR 39:2216 (August 2013).

**§2323. Proficiency Examinations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:391.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 33:2351 (November 2007), repealed LR 39:2216 (August 2013).

**§2324. Credit Recovery**

A. Credit recovery refers to instructional programs for students who have failed courses taken previously.

B. LEAs may develop credit recovery programs which are self-paced and competency-based.

1. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course.

2. Students shall not be required to meet attendance requirements in §1103.F for credit recovery courses, provided students have met attendance requirements when they took the course previously or the students' combined attendance during the previous course and the credit recovery course meet the attendance requirements.

3. Credit recovery courses must be aligned with the state's content standards.

4. Credit recovery courses taught in a classroom setting using computer software programs designed for credit recovery must be facilitated by a certified teacher.

a. Additional instruction to cover standards and grade-level expectations not included in the software programs shall be provided by a teacher properly certified in the content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2352 (November 2007), amended LR 39:2216 (August 2013).

**§2325. Advanced Placement and International Baccalaureate**

A. Each high school shall provide students access to advanced placement (AP) or international baccalaureate (IB) courses according to the schedule below:

1. at least one AP or IB course in each of two core content areas during the 2012-2013 school year;

2. at least one AP or IB course in each of three core content areas during the 2013-2014 school year;

3. at least one AP or IB course in each of four core content areas during the 2014-2015 school year;

4. at least one AP or IB course in each of four core content areas and one additional AP or IB course during the 2015-2016 school year.

B. High school credit shall be granted to a student successfully completing an AP course or an IB course, regardless of his test score on the examination provided by the college Board or on the IB exam.

1. Procedures established by the college board must be followed.

2. Courses listed in the program of studies may be designated as advanced placement courses on the student's transcript by following procedures established by the LDE.

a. The chart below lists the college board AP course titles, the IB course titles, and the corresponding Louisiana course titles for which these courses can be substituted.

College Board AP Course Title(s)	IB Course Title	Louisiana Course Title
Art History		AP Art History
Biology	Biology II IB	Biology II or Biology I
	Biology III IB	Biology Elective
Calculus AB	Math Methods II IB	Calculus
Calculus BC		AP Calculus BC
Chemistry		Chemistry II or Chemistry I
Computer Science A		AP Computer Science A
Economics: Macro	Economics IB	Economics
Economics: Micro		AP Economics: Micro
Chinese Language and Culture		Chinese IV
English Language and Composition	English III IB	English III
English Literature and Composition	English IV IB	English IV
Environmental Science	Environmental Systems IB	Environmental Science
European History		AP European History
French Language	French IV IB	French IV
	Film Study I IB	Visual Arts Elective
	Film Study II IB	Visual Arts Elective
	French V IB	French V
German Language		German IV
Government and Politics: Comparative		AP Government and Politics: Comparative
Government and Politics: United States		AP Government and Politics: United States (substitute for Civics)
Human Geography	World Geography IB	World Geography or AP Human Geography
	Informational Technology IB	Computer Systems/Networking I
Italian Language and Culture		Italian IV
Japanese Language and Culture		Japanese IV
Latin Literature		Latin IV
	Math Methods I IB	Pre-Calculus
	Music I IB	Music Theory I
Music Theory	Music II IB	Music Theory II
Physics B	Physics I IB	Physics
Physics C: Electricity and Magnetism		AP Physics C: Electricity and Magnetism
Physics C: Mechanics		AP Physics C: Mechanics
	Physics II IB	Physics II
Psychology		Psychology
Spanish Language	Spanish IV IB	Spanish IV
	Spanish V IB	Spanish V
Statistics		Probability and Statistics
Studio Art: 2-D Design	Art/Design IV IB	Art IV
Studio Art: 3-D Design		AP Studio Art 3-D Design
Studio Art: Drawing	Art Design III IB	Art III
	Theory of Knowledge I IB	Social Studies Elective
	Theory of Knowledge IB	Social Studies Elective

College Board AP Course Title(s)	IB Course Title	Louisiana Course Title
U.S. History	U.S. History IB	U.S. History
World History		World History
	World History IB	Western Civilization

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 34:2032 (October 2008), LR 37:3198 (November 2011), LR 38:759 (March 2012), LR 38:1584 (July 2012), LR 38:2363 (September 2012), LR 39:2216 (August 2013).

**§2326. Distance Education [Formerly §2395]**

A. An LEA choosing to implement a distance education program shall establish policy and procedures for reviewing and approving programs that meet the following standards for distance education as established by BESE.

1. Local distance education programs shall support the state content standards initiatives.

a. Distance education programs shall support the mission of the standards-based initiatives, i.e., "to develop rigorous and challenging standards that will enable all Louisiana students to become lifelong learners and productive citizens for the 21st century."

b. Distance education courses shall incorporate the foundation skills of the state content standards (communication, problem solving, resource access and utilization, linking and generating knowledge, and citizenship).

2. Distance education shall comply with all policies set forth by BESE as stated in current *Bulletin 741—Louisiana Handbook for School Administrators* with the exception of §907, Secondary—Class Times and Carnegie Credit.

a. Students can earn Carnegie credit by successfully completing all course requirements for distance education courses authorized by the LEA according to the policies in this Section.

3. The receiving LEA or school and the provider shall meet the following requirements related to the development of a standards-based distance education program. A *receiving LEA or school* is defined as any LEA or school that has students enrolled in courses via distance education. A provider could be an LEA, school, agency or educational organization.

a. The receiving LEA shall authorize each distance education course and ensure that the rigor and breadth meets state curriculum content standards.

b. The receiving LEA shall ensure that instruction is provided by teachers certified in the course/subject in which they are teaching with training in the delivery method, including appropriate media and pedagogy.

c. The receiving LEA shall verify that college and university advanced placement and/or college dual enrollment course instructional staff not holding Louisiana state teacher credentials are validated as subject matter experts by the providing institution.

d. The receiving LEA or school shall ensure that all students enrolled in a distance learning course are provided with the necessary course materials and technical support.



e. The receiving LEA shall evaluate the effectiveness of each authorized distance education course based on course completion rates and student achievement.

f. The provider shall define minimum prerequisite technology competencies for student participation in distance education courses if such competencies are required for course access.

g. The provider shall also make available to the student an orientation to the course delivery method prior to or at the start of the course.

h. The provider shall ensure that teachers delivering instruction in distance education courses use a variety of methods to assess the mastery of the content as reflected in the Louisiana content standards and aligned with common core state standards where applicable.

i. The provider shall provide to the receiving LEA a complete syllabus and a list of required materials prior to course implementation.

j. The provider shall ensure that all course content complies with copyright fair use laws, including The Technology, Education, and Copyright Harmonization Act (TEACH Act).

k. Online course providers shall ensure access to the courses' web content by using non-proprietary technologies (HTML).

l. LEAs and course providers shall make courses available to all students by complying with web accessibility guidelines and standards (W3C, section 508, and Louisiana and institutional guidelines) to the maximum extent reasonably possible.

m. The provider shall supply course content that is designed to meet the following criteria:

- i. based on current perspectives of learning theories and curriculum standards;
- ii. systematic in design, clearly written and revised based on student performance and feedback;
- iii. uses appropriate presentation methods, media and pedagogy;
- iv. engages students in a variety of learning activities based on various learning styles;
- v. accommodates individual differences, including student disabilities; and
- vi. encourages student-to-teacher and student-to-student interaction.

4. The receiving LEA or school and the provider shall meet the following requirements for management and administration.

a. The receiving LEA shall award credit and grades for distanced education courses assigned by the distance education provider and instructor with no deviations.

b. The receiving LEA or school shall ensure that a facilitator who is a Louisiana licensed teacher or LEA employed paraprofessional is assigned to and is actively engaged with each student participating in distance education courses.

c. The receiving LEA or school shall ensure that the facilitator adheres to guidelines determined by the provider and the policies in this Section.

d. The receiving LEA or school shall provide adequate, timely, and appropriate technical support to students, teachers, and facilitators.

e. The receiving LEA shall ensure that the facilitators are provided ongoing staff development appropriate to the delivery method used, supporting distance education courses technically and instructionally.

f. The receiving LEA shall ensure that students have appropriate, equitable, and adequate access for course participation.

g. In the event of short- and long-term interruptions, the LEA shall establish an alternative method of instruction in cooperation with the provider.

h. The provider shall judiciously address issues relative to course load and student-teacher ratio as appropriate for the particular method of delivery, course content, and teacher competency to ensure effective student interaction and course management.

i. Students will be enrolled, added, and dropped as outlined in the LEA's pupil progression plan.

j. The provider shall ensure that the teacher providing instruction is provided adequate technical support to ensure ease of use for faculty and students.

k. The provider shall furnish training and/or support in designing course content to fit the delivery methods proposed for distance education courses.

l. The teacher delivering instruction and the facilitator, through ongoing communication, shall be responsible for verifying student participation and performance.

m. The teacher delivering instruction shall provide alternate course procedures and activities for use in case of technical and other course delivery problems arise that prevent normal course delivery.

n. The teacher delivering instruction shall provide an atmosphere conducive to optimal learning including but not limited to monitoring online discussions and other instructional activities.

o. The teacher delivering instruction shall practice ethical and legal use of equipment and instructional resources.

p. The facilitator shall practice ethical and legal use of equipment and instructional resources.

q. The teacher delivering instruction and the facilitator through ongoing communication shall be responsible for verifying student participation and performance.

r. The facilitator shall implement alternate course procedures when technical and other course delivery problems prevent normal course delivery.

s. The facilitator shall maintain an atmosphere conducive to optimal learning, including but not limited to monitoring online discussions and other instructional activities as they occur in the classroom as directed by the teacher delivering instruction.

5. The following technical specifications are required.

a. The receiving LEA shall provide students enrolled in distance education courses technical access which meets specifications furnished by the course provider.

b. The receiving LEA shall provide instructional and communication hardware which meets specifications furnished by the course provider.

c. The receiving LEA shall fund and provide timely and appropriate technical support.



d. The provider will furnish course technical requirements sufficiently in advance so districts may make informed decisions about participation.

e. Course providers will ensure they have the appropriate technical infrastructure to support their course offerings for effective course delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), amended LR 33:2051 (October 2007), LR 38:3134 (December 2012), LR 39:2217 (August 2013).

### **§2327. Dual Enrollment**

A. The following policies apply to students attending colleges or other post secondary institution on a part-time basis.

1. The principal of the high school shall approve in advance the course to be pursued by the student in college.

2. The student shall meet the entrance requirements established by the college.

3. The principal of the high school shall verify that the contents of the college course meet the standards of the high school course for which the student is receiving credit.

4. The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

5. The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine-week intervals.

6. College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extra-curricular activities governed by voluntary state organizations.

7. Students may participate in college courses and special programs during regular or summer sessions.

8. For gifted students, entry into a college course for credit shall be stated in the student's IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 39:2219 (August 2013).

### **§2329. Early College Admissions Policy**

A. High school students of high ability may be admitted to a college on a full-time basis.

B. A student shall have maintained a "B" or better average on all work pursued during three years (six semesters) of high school.

C. The student shall have earned a minimum composite score of 25 on the ACT or an equivalent SAT score; this score must be submitted to the college.

D. A student shall be recommended by his high school principal.

E. Upon earning a minimum of 24 semester hours at the college level, the student shall be eligible to receive a high school diploma.

1. The high school principal shall submit to the LDE the following:

a. forms provided by the LDE and completed by the college registrar certifying that the student has earned 24 semester hours of college credit; and

b. a certificate of high school credits.

F. A student not regularly enrolled in the current school year in the high school shall be automatically eliminated from participation in all high school activities, with the exception of high school graduation ceremonies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 39:2219 (August 2013).

### **§2328. Military Service Credit**

#### **[Formerly §2326]**

A. Two units of elective credit toward high school graduation shall be awarded to any member of the United States Armed Forces, their reserve components, the National Guard, or any honorably discharged veteran who has completed his/her basic training, upon presentation of a military record attesting to such completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1294 (June 2005), amended LR 34:2032 (October 2008), LR 37:3199 (November 2011), LR 39:2219 (August 2013).

### **§2330. Approval for Experimental Programs**

#### **[Formerly §2393]**

A. Experimental programs are programs that deviate from established standards. Such programs shall be approved by the LDE and carried out under controlled conditions.

B. Approval of experimental programs shall be granted on a yearly basis not to exceed three years, after which time permanent approval shall be considered using the procedures listed below.

1. A letter of intent containing the following information shall be submitted to the LDE, at least 90 days prior to the anticipated date of implementation:

- a. proposed title of program;
- b. name and address of school;
- c. name and signature of superintendent;
- d. name, title, address, and telephone number of person submitting proposal;
- e. units of credit to be granted; and
- f. source of funding.

2. In addition, a brief narrative report stating the intent of the program and the procedures by which the program will be conducted and evaluated, and the following shall be submitted:

- a. a statement documenting support for the intended program;
- b. a statement outlining the exact guideline deviations necessary to implement the program;
- c. a statement outlining specific timelines for the planning and implementing phases of the program, including intended procedures;
- d. a statement of the evaluation procedures to be used in determining the program's effectiveness (these procedures should spell out specific objectives to be accomplished);
- e. a statement indicating approximate number of students to be involved in the project;
- f. a statement of qualifications or certification of instructional personnel; and

g. a statement stipulating that applicable local, state, and federal regulations will be followed.

3. An evaluation by the local governing authority shall be submitted annually at the close of the school year to the LDE until permanent status is granted.

4. Southern Association of Colleges and Schools member schools should comply with appropriate Southern Association standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), amended LR 39:2219 (August 2013).

**Subchapter B. Academic Programs of Study**

**§2335. Computer/Technology Education**

A. Computer/technology course offerings shall be as follows.

Course Title(s)	Units
Computer Applications	1
Computer Architecture	1
Computer Science I	1
Computer Science II	1
Computer Systems and Networking I	1
Computer Systems and Networking II	1
Computer/Technology Literacy	1
Desktop Publishing	1
Digital Graphics and Animation	1/2
Multimedia Productions	1/2 or 1
Web Mastering	1/2
Independent Study in Technology Application	1

B. Computer science certification is required to teach computer science I and II. Teachers who are identified to teach one of the other computer education course offerings at the high school level must hold a valid Louisiana secondary certificate or CTTIE certificate in any area and demonstrate sufficient technology proficiencies to teach the course. The district and school shall ensure that teachers have appropriated and demonstrated technology knowledge and skills to teach the courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 39:2220 (August 2013).

**§2339. Driver Education**

A. Driver education course offerings shall be as follows.

Course Title(s)	Units
Driver Education and Traffic Safety	1/2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 39:2220 (August 2013).

**§2345. Foreign Languages**

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each
Chinese I, II, III, IV	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each

B. Teachers of American sign language shall have a valid Louisiana teaching certificate and documentation of the following:

1. provisional level certification from the American Sign Language Teachers Association (ASLTA); or
2. certificate of interpretation (CI) from the Registry of Interpreters of the Deaf (RID); or
3. certificate of transliteration (CT) from the RID; or
4. certified deaf interpreter certification (CDI) from the RID; or
5. level IV or V certificate of competence from the National Association of the Deaf (NAD); or
6. level IV or V official documentation of the videotaped version of the educational interpreter performance assessment (EIPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013).

**§2347. Health Education**

A. - E.3. ...

F. Health education shall include instruction relative to dating violence. Such instruction shall include but need not be limited to providing students with the following information:

1. the definition of “dating violence;”
2. dating violence warning signs; and
3. characteristics of healthy relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1493 (July 2010), LR 37:1135 (April 2011), LR 39:2220 (August 2013).

**§2349. Jobs for Louisiana's Graduates**

A. Jobs for Louisiana's graduates elective course credit toward high school graduation shall be awarded to any student who successfully masters the jobs for Louisiana's graduates core competencies and other additional competencies in the model curriculum.

B. The jobs for Louisiana's graduates course offerings shall be as follows.

Course Title(s)	Units
Job's for Louisiana's Graduates I, II, III, IV	1 unit each

C. Teachers shall be certified in any secondary certification or jobs for Louisiana's graduates VTIE certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 39:2220 (August 2013).

**§2355. Music**

A. - B. ...

C. Approval by LDE is required before private piano and studio strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:2354 (November 2007), LR 37:2133 (July 2011), LR 39:2221 (August 2013).

**§2357. Physical Education**

A. One and one-half units of physical education shall be required for graduation. They may include

1. physical education I and II;
2. adapted physical education I and II for eligible special education students;
3. JROTC I, II, III, or IV; or
4. physical education I (1 unit) and one-half unit of marching band, extracurricular sports, cheering, or dance team.

B. The physical education course offerings shall be as follows.

Course Title(s)	Units
Adapted Physical Education I, II, III, IV	1 each
Physical Education I, II, III, IV	1 each
Marching Band	½
Cheering	½
Extracurricular Sports	½
Dance Team	½

C. - E. ...

F. Marching band, cheering, extracurricular sports, and dance team shall include weekly physical activity and encourage the benefits of a physically active lifestyle.

1. The LDE may request information to ensure the requirements above are met.

G. - J.5.a. ...

6. approval by the LDE by submitting documentation verifying the following;

- a. off-campus training program and its alignment with the state standards and GLEs;
- b. record of student's attendance and participation;
- c. qualifications of the instructor; and
- d. verification that the school principal has reviewed the documentation.

7. a hold harmless agreement signed by the parent or guardian of the student who would be participating in the off-campus athletic program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:17.1, R.S. 17:24.4, and R.S. 17:276.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:430 (March 2007), LR 38:40 (January 2012), LR 39:2221 (August 2013).

**§2364. Special Education**

A. The special education course offerings shall be as follows.

Course Title(s)	Units
Study Skills I, II, III, IV	1 each
Transition: Employment Sampling	1
Transition: Employment	1
Transition: Education/Training	1
Transition: Independent Living	1
Local Gifted Elective I, II, III, IV	1 each
Gifted Independent Research I, II, III, IV	1 each
Gifted College and Career Choices	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3070 (December 2005), amended LR 39:2221 (August 2013).

**§2367. Religious Studies**

A. A maximum of four units in religious studies shall be granted to students transferring from state-approved private and sectarian high schools who have completed such coursework. Those credits shall be accepted in meeting the elective requirements for high school graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 37:2134 (July 2011), LR 39:2221 (August 2013).

**Subchapter C. Career and Technical Education**

**§2371. Career and Technical Education Course Offerings**

**Offerings**

A. Administrative procedures for the operation of program areas in career and technical education are found in Chapter 31.

B. Safety must be taught in all courses. Refer to Bulletin 1674, Career and Technical Education Safety and Health Manual (1992), for safety information.

NOTE: Refer to career and technical education course descriptions and programs of study for the required prerequisites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 39:2221 (August 2013).

**§2373. Agricultural Education**

A. The Agricultural Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Agriscience	7-8	-
Agribusiness	10-12	1/2-1
Agricultural Education Elective I, II	9-12	1/2-3
Agriscience I	9-12	1
Agriscience II	10-12	1
Agriscience III	11-12	1
Agriscience Elective I, II	9-12	1/2-3
Agriscience-Construction Technology	11-12	1/2-1
Agriscience-Leadership	9-12	1/2-1
Agriscience Power Equipment	11-12	1/2-1
Animal Science	11-12	1/2-1
Biotechnology in Agriscience	11-12	1

Course Title(s)	Recommended Grade Level	Units
CASE Animal Science	10-12	1
CASE Plant Science	10-12	1
Cooperative Agriscience Education I	11-12	3
Cooperative Agriscience Education II	12	3
Environmental Studies in Agriscience	11-12	1
Equine Science	11-12	1/2-1
Floristry	11-12	1
Forestry	11-12	1/2-1
Horticulture	11-12	1/2-1
Landscape Design, Construction and Maintenance	10-12	1
Meat Processing	11-12	1
Precision Instrumentation in Agriscience	10 12	1/2-1
Small Animal Care and Management	10-12	1/2-1
Veterinary Assistant	10-12	1
Veterinary Assistant II	11-12	1
Woodworks	10-12	1
NCCER Welding Technology I, II	11-12	1-3
NCCER Carpentry I, II	11-12	1-3
NCCER Electrical I, II	11-12	1-3
NCCER Pipefitter I, II	11-12	1-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 33:277 (February 2007), LR 33:2050 (October 2007), LR 34:2386 (November 2008), LR 35:1875 (September 2009), LR 35:2747 (December 2009), LR 36:1995 (September 2010), LR 39:2221 (August 2013).

**§2375. Business Education**

A. The Business Education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory Keyboarding (Middle School)	6-8	
Accounting I	10-12	1
Accounting II	11-12	1
Administrative Support Occupations	11-12	1
Business Communications	10-12	1
Business Computer Applications	10-12	1
Business Education Elective I, II	9-12	1/2-3
Business Law	10-12	1/2
Computer Technology Literacy	9-12	1
Computer Multimedia Presentations	11-12	1/2
Cooperative Office Education (COE)	12	3
Desktop Publishing	9-12	1
Economics	11-12	1
Entrepreneurship	11-12	1
Financial Mathematics	10-12	1
Introduction to Business Computer Applications	9-12	1
Keyboarding	9-12	1/2
Keyboarding Applications	9-12	1/2
Lodging Management I	10-12	1-3
Lodging Management II	11-12	1-3
Principles of Business	9-12	1
Telecommunications	10-12	1/2
Web Design	10-12	1
Web Design II	10-12	1
Word Processing	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:277, 278 (February 2007), LR 33:1614 (August 2007), LR 34:2557 (December 2008), LR 39:2222 (August 2013).

**§2377. General Career and Technical Education**

A. General career and technical education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Assistive Technology for the Visually Impaired	9-12	1
Business Enterprises for the Visually Impaired	12	1
Braille I	9-12	1
Braille II	9-12	1
CTE Internship I	11-12	1
CTE Internship II	12	1
CTE Internship I	11-12	2
CTE Internship II	12	2
Consumer Finance and Banking	12	1
General Cooperative Education I	11-12	3
General Cooperative Education II	12	3
Education for Careers I, II	11-12	1/2
Advanced Television Broadcasting I	10-12	1-3
Advanced Television Broadcasting II	11-12	1-3
Digital Media I	10-12	1-3
Digital Media II	11-12	1-3
STAR I	11-12	1
STAR II	12	1
Journey to Careers I, II	9	1/2
Oracle Internet Academy		
Database Design and Programming	11-12	1
Database Programming with PL/SQL	11-12	1
Finance Academy		
Business Economics	11-12	1/2
Financial Services	9-12	1/2
Financial Planning	10-12	1/2
Ethics in Business	11-12	1/2
Insurance	10-12	1/2
Business in a Global Economy	11-12	1/2
Principles of Finance	9-12	1/2-1
Principles of Accounting	9-12	1/2
Managerial Accounting	10-12	1/2
Applied Finance	11-12	1/2
Hospitality and Tourism Academy		
Principles of Hospitality and Tourism	9-12	1/2
Entrepreneurship	11-12	1/2
Delivering Great Customer Service	11-12	1/2
Sports Entertainment and Event Management	11-12	1/2
Geography for Tourism	9-12	1/2
Sustainable Tourism	11-12	1/2
Hospitality Marketing	11-12	1/2
Information Technology Academy		
Principles of Information Technology	9-12	1/2
Computer Networking	10-12	1/2
Web Design	10-12	1/2
Databases Design	11-12	1/2
Computer Systems	9-12	1/2
Introduction to Programming	10-12	1/2
Digital Video	9-12	1/2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 32:546 (April 2006), LR 32:1415 (August 2006) LR 33:278 (February 2007), LR 33:2050 (October 2007), LR 34:1386 (July 2008), LR 34:2558 (December 2008), LR 35:1229 (July 2009), LR 35:2319 (November 2009), LR 35:2748 (December 2009), LR 36:1496 (July 2010), LR 36:1997 (September 2010), LR 39:2222 (August 2013).

**§2379. Family and Consumer Sciences Education**

A. The family and consumer sciences (FACS) education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Exploratory FACS	7-8	
Family and Consumer Sciences I	9-12	1
Family and Consumer Sciences II	10-12	1
Food Science	10-12	1
Adult Responsibilities	11-12	1/2
Child Development	10-12	1/2
Personal and Family Finance	10-12	1/2
Family Life Education	10-12	1/2
Clothing and Textiles	10-12	1/2
Housing and Interior Design	10-12	1/2
Nutrition and Food	10-12	1/2
Parenthood Education	11-12	1/2
Advanced Child Development	10-12	1/2
Advanced Clothing and Textiles	10-12	1/2
Advanced Nutrition and Food	10-12	1/2
FACS Elective I, II	9-12	1/2-3
Occupational Courses		
Clothing and Textile Occupations I	11-12	1-3
Clothing and Textile Occupations II	12	1-3
Early Childhood Education I	11-12	1-3
Early Childhood Education II	12	1-3
Food Services I	11-12	1-3
Food Services II	11-12	1-3
Food Service Technician	11-12	1
Housing & Interior Design Occupations	11-12	1-3
ProStart I	11-12	1-3
ProStart II	12	1-3
Baking and Pastry Arts I	11-12	1-3
Baking and Pastry Arts II	12	1-3
Cooperative FACS Education	12	3

AUTHORITY NOTE: Promulgated in accordance R.S. 17:7, R.S. 17:24.4, and R.S. 17:279.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1299 (June 2005), amended LR 33:278 (February 2007), LR 37:880 (March 2011), LR 39:2223 (August 2013).

**§2381. Health Science Education**

A. Health occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3

Course Title(s)	Recommended Grade Level	Units
Emergency Medical Technician—Basic	12	2-3
First Responder	10-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nurse Assistant	10-12	2-3
Patient Care Technician	12	3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1/2
Sports Medicine II	11-12	1/2
Sports Medicine III	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 33:2051 (October 2007), LR 35:1875 (September 2009), LR 35:2320 (November 2009), LR 35:2749 (December 2009), LR 36:2261 (October 2010), LR 39:2223 (August 2013).

**§2382. Law, Public Safety, Corrections and Security Education**

A. The law and public safety education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Criminal Justice Elective I, II	9-12	1/2-3

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1875 (September 2009), amended LR 39:2223 (August 2013).

**§2383. Marketing Education**

A. Marketing education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advertising and Sales Promotion	11-12	1
Cooperative Marketing Education I	11-12	3
Cooperative Marketing Education II	12	3
Customer Service	12	1
Entrepreneurship	11-12	1
Leadership	9-12	1/2
Marketing Education Elective I, II	9-12	1/2-3
Marketing Management	11-12	1
Marketing Research	11-12	1
Personal Finance	9-12	1/2
Principles of Marketing	9-12	1
Retail Marketing	10-12	1
Sports and Entertainment Marketing	11-12	1
Tourism Marketing	10-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 34:2558 (December 2008), LR 39:2223 (August 2013).

**§2385. Technology Education**

A. Technology education (formerly industrial arts) course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Advanced Electricity/Electronics	10-12	1
Advanced Metal Technology	10-12	1
Advanced Wood Technology	10-12	1
Aerospace Engineering	11-12	1
Automation in Manufacturing	10-12	1
Basic Electricity/Electronics	9-12	1
Basic Metal Technology	9-12	1
Basic Wood Technology	9-12	1
Civil Engineering and Architecture	11-12	1
Communication/Middle School	6-8	
Communication Technology	9-12	1
Computer Integrated Manufacturing	11-12	1
Construction/Middle School	6-8	
Construction Technology	10-12	1
Cooperative Technology Education	10-12	3
Digital Electronics	9-10	1
Energy, Power, and Transportation Technology	9-12	1
Engineering Design I, II	11-12	1
Engineering Design and Development	11-12	1
General Technology Education	9-12	1
Introduction to Engineering Design	8-12	1
Manufacturing Process and Team Building	9-12	1
Manufacturing Technology	9-12	1
Manufacturing Technology/Middle School	6-8	
Manufacturing Tools and Equipment	10-12	1
Marine Engineering	11-12	0.5
Materials and Processes	10-12	1
Modular Technology/Middle School	6-8	
Oil and Gas Production Operations	11-12	1
Physics of Technology I	10-12	1
Physics of Technology II	11-12	1
Power Mechanics	9-12	1
Principles of Engineering	9-10	1
T2 Safety Systems for Oil and Gas Production	11-12	1
Technology Education Computer Applications	9-12	1
Technology Education Elective I, II	9-12	1/2-3
Transportation Technology/Middle School	6-8	
Welding Technology	10-12	1
Advanced Technical Drafting	10-12	1
Architectural Drafting	10-12	1
Basic Technical Drafting	9-12	1
Introduction to Fabrication P-Tech and Manufacturing	10-12	1
NCCER Carpentry I, II TE	11-12	1-3
NCCER Electrical I, II TE	11-12	1-3
NCCER Industrial Maintenance	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Insulating	11-12	1-3
NCCER Pipe Fitter I, II TE	11-12	1-3
NCCER Welding Technology I, II TE	11-12	1-3
Process Technician I, II	11-12	1

Course Title(s)	Recommended Grade Level	Units
T2 Safety Systems for Oil and Gas Production	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 35:1229 (July 2009), LR 35:2323 (November 2009), LR 35:2747 (December 2009), LR 36:1997 (September 2010), LR 38:1400 (June, 2012), LR 38:2364 (September 2012), LR 39:2224 (August 2013).

**§2387. Trade and Industrial Education**

A. Trade and industrial education course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
Air Conditioning/ Refrigeration I, II	11-12	1-3
Air Conditioning/ Refrigeration III, IV	11-12	2-3
Auto Body Repair I, II	11-12	1-3
Auto Body Repair III, IV	11-12	2-3
Automotive Technician I, II	11-12	1-3
Automotive Technician III, IV, V, VI	11-12	1-3
General Automotive Maintenance	11-12	1-3
G.M. Technician I, II	11-12	1-3
NCCER Carpentry I, II	11-12	1-3
NCCER Electrical I, II	11-12	1-3
NCCER Instrumentation Control Mechanic I, II	11-12	1-3
NCCER Pipe Fitter I, II	11-12	1-3
NCCER Welding Technology I, II	11-12	1-3
Masonry I, II	11-12	1-3
Cabinetmaking I, II	11-12	1-3
Carpentry I, II	11-12	1-3
Carpentry III, IV	11-12	2-3
Culinary Occupations I, II	11-12	1-3
Culinary Occupations III, IV	11-12	2-3
Custom Sewing I, II	11-12	1-3
Computer Electronics I, II	11-12	1-3
Computer Service Technology I, II	11-12	2-3
Commercial Art I, II	11-12	1-3
T and I Cooperative Education (TICE) I	11-12	1-3
T and I Cooperative Education (TICE) II	12	1-3
T and I Elective I	11-12	1-3
T and I Elective II	11-12	1-3
Cosmetology I, II	11-12	1-3
Cosmetology III, IV	11-12	2-3
Diesel Mechanics I, II	11-12	1-3
Diesel Mechanics III, IV	11-12	2-3
Drafting and Design Technology I, II	11-12	1-3
Drafting and Design Technology III, IV	11-12	2-3
Basic Electricity I, II	11-12	1-3
Electronics I, II	11-12	1-3
Industrial Electronics I, II	11-12	1-3
Electrician I, II	11-12	1-3
Electrician III, IV	11-12	2-3
Graphic Arts I, II	11-12	1-3
Graphic Arts III, IV	11-12	2-3
Horticulture I, II	11-12	1-3
Industrial Engines I, II	11-12	1-3
Laboratory Technology I, II	11-12	1-3
Industrial Machine Shop I, II	11-12	1-3
Industrial Machine Shop III, IV	11-12	2-3
Marine Operations I, II	11-12	1-3
Photography I, II	11-12	1-3

Course Title(s)	Recommended Grade Level	Units
Networking Basics	10-12	2-3
Routers and Routing Basics	10-12	2-3
Switching Basics and Intermediate Routing	11-12	2-3
WAN Technologies	11-12	2-3
Plumbing I, II	11-12	1-3
Printing I, II	11-12	1-3
Sheet Metal I, II	11-12	1-3
Outdoor Power Equipment Technician I, II	11-12	1-3
Outdoor Power Equipment Technician III, IV	11-12	2-3
Television Production I, II	11-12	1-3
Upholstery I, II	11-12	1-3
Welding I, II	11-12	1-3
Welding III, IV	11-12	2-3
Hull Shipbuilding	11-12	1/2
Barber I-IV	9-12	2

B. An LEA may offer a one-hour trade and industrial education program for one unit of credit at the ninth or tenth grade level as a prerequisite to enrollment in a related trade and industrial education program at the tenth, eleventh, or twelfth grade level. The course shall be in the programmatic area in which the trade and industrial education instructor is certified to teach.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 32:1415 (August 2006), LR 33:1615 (August 2007), LR 34:2558 (December 2008), LR 35:2324 (November 2009), LR 35:2748 (December 2009), LR 35:2751 (December 2009), LR 39:2224 (August 2013).

### §2389. Credit for Career and Technical Education Courses

A. Requests for partial credit for two- or three-hour blocks of career and technical education courses because of unusual or extenuating circumstances shall be made by the LEA. Documentation shall be kept in the student's cumulative folder.

B. A secondary student attending a postsecondary technical college during the regular school year or summer program may receive credit for instruction in any program area offered in the postsecondary technical college if requirements for Carnegie units are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005), amended LR 39:2225 (August 2013).

### §2391. Secondary Students Attending a Private Cosmetology School

A. A secondary student attending an approved cosmetology school, licensed by the Louisiana State Board of Cosmetology, may receive trade and industrial education credit if requirements for Carnegie units are met.

B. A copy of the written agreement between the LEA and the private cosmetology school shall be on file in the central office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1301 (June 2005), amended LR 39:2225 (August 2013).

### §2393. Approval for Experimental Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), repealed LR 39:2225 (August 2013).

### §2395. Distance Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1302 (June 2005), amended LR 33:2051 (October 2007), LR 38:3134 (December 2012), repealed LR 39:2225 (August 2013).

### Chapter 25. Summer Schools, Special Ed Extended School Year Programs

#### §2501. Elementary Summer Schools

A. LEAs may offer a summer school program to enable students who have failed in subjects to remove deficiencies and be considered for promotion to the next grade or to provide additional learning opportunities.

B. Summer schools shall be organized and operated under the administration and supervisory control of the superintendent of the LEA.

C. LEAs shall provide summer school remediation and retest opportunities as outlined in *Bulletin 1566—Pupil Progression Policies and Procedures*.

D. Students attending summer school for promotional purposes shall have written consent by the principal of the last school they attended.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1304 (June 2005), amended LR 39:2225 (August 2013).

#### §2503. Secondary Summer Schools

A. Schools may offer summer school to enable students to schedule courses to enrich their experiences, to take new subjects, and to enable students who have failed in subjects to remove deficiencies.

B. Summer schools shall be organized and operated under the administrative and supervisory control of the superintendent of the LEA.

C. The summer school administration shall have written permission from the principal of the student's home school for the student to attend summer school if high school credit is to be awarded.

D. LEAs shall provide summer school remediation and retest opportunities as outlined in *Bulletin 1566—Pupil Progression Policies and Procedures*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1304 (June 2005), amended LR 39:2225 (August 2013).

#### §2504. Private Summer School Providers

A. All students shall have written permission from the principal of the student's home school to attend a private summer school provider for credit or promotional purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10 and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3071 (December 2005), amended LR 39:2225 (August 2013).

### **§2505. Extended School Year Program (ESY) for Eligible Students with Disabilities**

A. Each LEA shall provide eligible students with disabilities special educational and related services beyond the normal school cycle when stated in the IEP.

NOTE: Refer to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and *Bulletin 1530—Louisiana IEP Handbook for Students with Exceptionalities*.

AUTHORITY NOTE: Promulgated in accordance with 20 USCS 1412 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1305 (June 2005), amended LR 39:2226 (August 2013).

## **Chapter 29. Alternative Schools and Programs**

### **§2901. Philosophy and Need for Alternative Schools/Programs**

A. - B. ...

C. Any student suspended or expelled from school for a period of over 10 consecutive school days shall remain under the supervision of the LEA taking such action using alternative education programs for suspended and expelled students.

D. Any student placed in an alternative school or an alternative education program must attend and participate in such school, program, or education services.

E. Each alternative school/program shall develop and maintain a written statement of its philosophy and the major purposes to be served by the school/program. The statement shall reflect the individual character of the school/program and the characteristics and needs of the students it serves.

F. The educational school/program shall be designed to implement the stated goals and objectives, which shall be directly related to the unique educational requirements of its student body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5 and RS 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 39:2226 (August 2013).

### **§2903. Approval for Alternative Schools or Programs**

A. Alternative schools or programs shall comply with prescribed policies and standards according to *Bulletin 131—Alternative Education Schools/Programs Standards* and for regular schools except for those deviations granted by BESE. Additional information can be obtained in the Louisiana alternative education handbook found on the DOE website.

B. Approval to operate an alternative school or program shall be obtained from BESE.

1. An LEA choosing to implement a new alternative school or program shall notify the LDE on or before the date prescribed by the LDE. LEAs may not change their requested school or program classification after July 1.

2. The LDE will provide BESE with an annual report from alternative schools or programs by October of each year.

C. An approved alternative school or program shall be described in the LEA's pupil progression plan.

D. Approved alternative programs and alternative schools shall be subject to monitoring by the DOE staff, as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2318 (November 2009), LR 37:2128 (July 2011), LR 38:1583 (July 2012), LR 39:2226 (August 2013).

### **§2905. Evaluation of Alternative Schools/Programs**

A. Each LEA annually shall evaluate each alternative school/program. The evaluation shall be based upon the standards for approval of alternative schools/programs and shall include testing of basic skills for student participants. The process of evaluation shall also include teacher, parent, and student input from the alternative school. The annual report shall be made to the LDE on or before the date prescribed by the LDE.

B. Starting with the 2013-2014 academic year, all alternative schools and programs will receive a performance report that shall include, but not be limited to, data pertaining to academic progress, credit accumulation, completion, and behavior modification.

NOTE: Refer to the alternative education handbook for program operation guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 35:2319 (November 2009), LR 39:2226 (August 2013).

### **§2907. Connections Process**

A. All LEAs should be empowered to create a system of intervention appropriate for the student population and every LEA shall be held accountable for the academic growth of every student.

B.1. LEAs may choose to implement the Connections Process which replaces Louisiana's PreGED/Skills Option Program. Connections is a one-year process for overage students to receive targeted instruction and accelerated remediation aimed at attaining a high school diploma, high school equivalency diploma (by passage of GED tests), or state-approved skills certificate. The process includes a connections profile to track the following elements:

- a. academic and behavioral interventions;
- b. mentoring;
- c. job skills training;
- d. TABE locator and battery assessments;
- e. committee reviews;
- f. parent meetings;
- g. individual prescriptions for instruction;
- h. individual graduation plans; and
- i. exiting pathways.

2. While in the Connections Process, students are eighth graders and therefore shall take required eighth grade courses per Bulletin 741.

NOTE: Refer to high stakes testing policy in *Bulletin 1566—Pupil Progression Policies and Procedures*. Requirements differ for initial 8th grade students and students repeating the 8th grade.

3. Students in the Connections Process shall be 15 years of age during the school year and two years behind their peers academically to enter the Connections Process.



4. Schools opting to participate in the Connections Process must follow the Connection Process handbook found on the LDE website.

C. All LEAs participating in the Connections Process shall annually submit their intent to participate to the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 34:2032 (October 2008), LR 37:2131 (July 2011), LR 38:1000 (April 2012), LR 39:2226 (August 2013).

#### **§2909. The Earning of Carnegie Units**

A. Students enrolled in an alternative school/program shall have the opportunity to earn Carnegie credits when possible.

B. Carnegie credits courses shall be taught by regular or special education teachers certified in the subject matter areas in which they are teaching.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:400.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 39:2227 (August 2013).

#### **§2911. Alternative Education Providers**

A. A school governing authority may enter into an agreement with an education service provider to provide an alternative education placement for students.

##### **B. Required Interventions**

1. The program or school run by the educational service provider must provide academic, behavioral, and mental health interventions including, but not limited to, those listed in R.S. 17:416.2(D)(3)(b) for any student who meets any of the following criteria:

a. has been adjudicated delinquent by a court having juvenile jurisdiction as defined in Article 302 of the *Louisiana Children's Code*;

b. has been adjudicated by a court as a member of a family in need of services and is assigned by the office of juvenile justice to a community-based program or facility;

c. is in the custody of the office of juvenile justice as a result of an adjudication and is assigned by the office of juvenile justice to a community-based program or facility; or

d. is a student who has been suspended or expelled pursuant to the provisions of R.S. 17:416(B) or (C)(2).

2. Such services shall be provided to the school governing authority at the actual costs incurred by the provider, not to exceed for each student the pro rata share of the combined state and local per pupil amount of the minimum foundation program for such governing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2227 (August 2013).

### **Chapter 31. Career and Technical Education (CTE)**

#### **§3103. Requirements for Teachers**

A. The CTE teacher shall hold a valid Louisiana teaching certificate or valid career and technical trade and industrial education (CTTIE) certificate that entitles the holder to teach in the career area of the actual teaching assignment. Certification is required to teach in all CTE program areas.

[Refer to LAC 28:CXXXI.Bulletin 746—Louisiana Standards for State Certification of School Personnel, §§501-511.]

B. CTE instruction shall integrate state-approved standards for students to achieve the desired CTE

competencies and academic competencies that will enable the student to be successful on the job or at the postsecondary level.

C. All agriculture teachers employed by an LEA shall teach a 12-month program for a 12-month budget period and shall be paid a salary at the same monthly rate as provided in the minimum salary schedule contained in R.S. 17:421.3. The agriculture program shall include, but not be limited to recognized co-curricular activities, to be supervised by agriculture teachers during the summer months such as those offered by the National Future Farmers of America (FFA) Organization or other appropriate organizations that provide summer occupational experiences, leadership programs, statewide judging contests, and youth conventions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 422.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 35:1877 (September 2009), LR 35:2323 (November 2009), LR 39:2227 (August 2013).

#### **§3107. Instructional Programs**

A. For each CTE course, the teacher shall follow the model course guidelines.

B. Instructional content of each course shall meet state and federal guidelines relative to unbiased treatment of race, sex roles, and religious and political beliefs.

C. Secondary students who are in the ninth through the twelfth grade shall be eligible for enrollment in CTE programs.

D. Middle school (grades seven through eight) career and technical education programs shall meet the generic standards for senior high CTE programs, as well as specific standards for middle school approval in the CTE program area(s). Middle school CTE programs shall be coordinated with the CTE program at the senior high school.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:181.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1309 (June 2005), amended LR 39:2227 (August 2013).

#### **§3109. Carnegie Credit**

A. Credit shall be awarded for successful completion of one-half to three Carnegie credits of career and technical education courses.

1. Credit for partial completion of two- or three-hour career and technical education courses may be granted for unusual or extenuating circumstances. Documentation shall be kept in the student's cumulative folder.

B. No career and technical education or contract course shall be offered for credit in any secondary setting if it requires a license to practice the job, until the course has been approved by the licensing board designated to regulate that vocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 39:2227 (August 2013).

#### **§3111. Career and Technical Education Student Organizations (CTSOs)**

A. Activities of CTSOs should be offered as an integral part of the CTE instruction and be under the supervision of

the instructional staff. The CTSOs for the respective CTE program areas are as follows:

1. agriscience—National FFA Organization (FFA);
2. business education—Future Business Leaders of America (FBLA);
3. health occupations—Health Occupations Students of America (HOSA);
4. family and consumer sciences—Family, Career, and Community Leaders of America (FCCLA);
5. marketing education—Association of Marketing Students (DECA);
6. technology education—Technology Student Association (TSA);
7. trade and industrial education—SkillsUSA.

B. Each local school governing authority shall develop procedures and policies for the approval of travel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 39:2227 (August 2013).

### **§3113. Work-Based Learning**

A. - F.1. ...

G. Teacher-Coordinator for Work-Based Learning

1. The teacher-coordinator and the employer shall cooperatively complete a training memorandum for both the classroom phase and the on-the-job training phase. The training memorandum and a list of skill competencies shall be prepared for each student. The list of competencies shall include skills and knowledge to be learned in the classroom and skills to be learned through on-the-job training.

2. Copies of the training memorandum and skills competencies shall be maintained in each work-based education student's folder and provided to the training sponsor (employer). The training memorandum is the application for an employment certificate for work-based education students. The employment certificate must be applied for on-line through the LA Workforce Commission's website.

3. Each teacher-coordinator for work-based programs must submit a class organization report to the LDE.

4. The cooperative education teacher-coordinator shall visit each student on the job to observe the student at work, to confer with the employer, and to obtain a written evaluation of the student's progress at least four times during the school year.

5. The internship education teacher-coordinator shall visit each student on the job to observe the student at work, to confer with the employer, and to obtain a written evaluation of the student's progress at least two times during the school year.

6. The teacher-coordinator shall inform the employer of labor laws as they apply to minors engaged in work-based learning.

7. Orientation and pre-employment training, as well as safety training, shall be provided for each student prior to the student's placement with a program training sponsor (employer).

8. It is recommended that funding for extended employment beyond the school year be provided for each teacher-coordinator.

9. The program training sponsor (employer) shall complete a written evaluation of each student's on-the-job performance for each grading period.

10. The teacher-coordinator shall be responsible for determining the student's grade.

H. Work-Based Learning Students

1. Cooperative education students shall be placed in appropriate, paid training stations within three weeks of the opening of school. Students not placed shall be rescheduled into non-cooperative courses.

2. Cooperative education students shall receive minimum wage or above for the hours spent in job training.

3. Internship students shall be placed in appropriate, paid or non-paid training stations within three weeks of the opening of school. Students not placed shall be rescheduled into non-internship courses.

4. Students in cooperative office education, cooperative technology education, health occupations cooperative education, and family and consumer sciences cooperative education shall be seniors. Students in cooperative agriscience education, general cooperative education, cooperative marketing education, and trade and industrial cooperative education (TICE) shall be juniors or seniors.

a. Reference model course guidelines for course requirements and prerequisites.

5. Internship students shall be juniors or seniors.

6. Work-based education students must successfully complete both the classroom and the on-the-job training phase to receive any credit. Students enrolled in cooperative education course shall not begin a work-based program at midterm.

NOTE: Refer to career and technical education course offerings for prerequisites and requirements for specific work-based programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1310 (June 2005), amended LR 33:280 (February 2007), LR 39:2228 (August 2013).

### **§3115. Procedures for Program Approval**

A. Any new instructional program in career and technical education, including regular, cooperative, pilot, or alternative, shall obtain approval from the LDE before initiation.

B. In order to qualify for funding as an approved program:

1. instruction shall be based on the CTE standards and benchmarks and model course guidelines;

2. the teacher shall maintain certification in the CTE program they are assigned to teach;

3. if a school offers an industry-based certification (IBC), the teacher of the IBC course(s) shall hold or work toward obtaining the industry certification. Teachers shall have a maximum of three years to obtain the certification;

4. each program area offered by a high school shall make available at least one career pathway approved by BESE;

5. each program area shall offer courses in that program area for at least 50 percent of the school day;

6. where national program certification exists, the program shall meet or work toward obtaining the program

certification. Schools shall have a maximum of three years to obtain the certification;

7. CTE instruction shall integrate career and technical education and state-approved standards to strengthen basic academic skills in communication, mathematics, science and social studies and develop critical thinking skills through practical applications in real-life situations;

8. each local educational governing authority should establish and maintain a local advisory council for CTE.

a. The membership of the local advisory council should be composed of representatives of the general public, including at least a representative of business, industry, and labor with appropriate representation of both sexes and racial and ethnic minorities found in the program areas, schools, community, or region that the local advisory council serves.

b. The duties of the local advisory council include advising the local education governing authority on:

- i. current job needs; and
- ii. the relevancy of programs (courses) being offered to meet the current job needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1311 (June 2005), amended LR 39:2228 (August 2013).

### **§3117. Additional Program Approval Procedures**

#### **A. Agriscience/Agribusiness**

1. The teacher shall assist each student in planning and developing a supervised agriculture experience (SAE) program of one or more of the following types:

- a. ownership at the student's home, farm or business;
- b. placement at a farm or agribusiness other than that owned by the student;
- c. directed laboratory at a school facility such as school farm, greenhouse, garden, shop, forestry plot, food preservation center, etc.

2. The teacher shall supervise on a regular and periodic basis all SAE programs and shall assist the students in maintaining accurate records of their SAE programs.

3. The teacher shall participate in inservice activities by attending and taking part in the annual summer inservice held in conjunction with the area FFA leadership camp and any other LDE-sponsored inservice required of all agriculture teachers in the state.

4. The teacher shall organize and maintain an active chapter of the National FFA Organization, serving as its advisor, and will attend with two or more members the state convention and area leadership camp. Dues and special fees and reports will be submitted by the deadline set by the Louisiana Association of FFA. Each FFA chapter will participate in a minimum of four contests at the area or state level and will submit applications for at least three chapter or individual FFA awards. All FFA members will achieve the greenhand degree, and 80 percent or more of members enrolled in classes above the agriscience I level will achieve the chapter FFA degree.

5. The LEA shall determine required documentation regarding an agriscience teacher's summer work activities. The teacher shall be responsible for carrying out the summer

work activities and submitting reports, as deemed necessary by the LEA, documenting the summer work activities.

6. Each LEA will be responsible for maintaining the above documentation of the additional program approval requirements for their agriscience/agribusiness programs.

#### **B. Health Science Education**

1. Health science education programs shall meet requirements of appropriate licensing or recognized accrediting agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:185.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1311 (June 2005), amended LR 39:2229 (August 2013).

## **Chapter 33. Home Study Programs**

### **§3305. Application Process**

#### **A. Initial Application**

1. An initial application must be made within 15 days after the beginning of the program to the LDE for review and recommendation to BESE.

2. The initial application shall be accompanied by a certified copy or a photocopy of the birth certificate of the child.

#### **B. - C. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 39:2229 (August 2013).

### **§3309. Curriculum**

A. The home study program shall have a sustained curriculum of a quality at least equal to that offered by public schools at the same grade level. The sustained curriculum must be substantiated in one of the following ways:

1. a packet of materials which shall be evaluated by the LDE for adequacy and which shall include such documents as:

- a. a complete outline of each of the subjects taught during the previous year;
- b. lists of books/materials used;
- c. copies of the student's work;
- d. copies of the student's standardized test results;
- e. statements by third parties who have observed the child's progress; or
- f. any other evidence of the quality of the program being offered;

2. verification that the child took the LEAP tests and scored at or above the state performance standards as established by BESE for his/her grade level; or

3. verification that the child has taken the California Achievement Test or such other standardized examinations as may be approved by BESE including, but not limited to, tests approved for the Nonpublic School Testing Program, and the child has scored at or above his/her grade level for each year in home study; or

4. a statement from a teacher certified to teach at the child's grade level stating that the teacher has examined the program being offered and that in his/her professional opinion this child is being taught in accordance with a sustained curriculum of quality at least equal to that offered by public schools at the grade level, or in the case of

children with mental or physical disabilities, at least equal to that offered by public schools to children with similar disabilities. The teacher evaluation is subject to review and approval by BESE.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 37:1137 (April 2011), LR 39:2229 (August 2013).

### **§3313. Admission or Readmission to the Public School System**

A. The LEA shall have a written policy included in the local pupil progression plan for admission or readmission of home study students to public schools. Refer to *Bulletin 1566—Pupil Progression Policies and Procedures*.

1. The policy shall provide for the screening and evaluation of such students and shall include examinations to determine the grade level at which students should be admitted.

2. The policy shall include the administration of the Louisiana Educational Assessment Program tests for the grades offered or required by BESE. Refer to the guidelines for nonpublic and home schooled students transferring to the public school systems: participation in the LEAP.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:2230 (August 2013).

### **§3317. Cost**

A. All costs directly attributed to the home study program shall be borne by the parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:2230 (August 2013).

## **Chapter 35. Montessori Schools**

### **§3501. Approval of Training Courses**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), repealed LR 39:2230 (August 2013).

### **§3503. Classification Categories**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401 and R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:2230 (August 2013).

### **§3505. School Approval Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:2230 (August 2013).

### **§3507. Staff Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3401 and R.S. 17:3403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:2230 (August 2013).

### **§3509. Plant and Facilities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1314 (June 2005), repealed LR 39:2230 (August 2013).

### **§3511. Programs and Materials**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:2230 (August 2013).

### **§3513. Scheduling**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:2230 (August 2013).

### **§3515. Admissions and Enrollment**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:2230 (August 2013).

### **§3517. Parent Interaction Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3402.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1315 (June 2005), repealed LR 39:2230 (August 2013).

## **Chapter 37. Glossary**

### **§3701. Abbreviations/Acronyms**

*ADA*—Americans with Disabilities Act.

*AP*—advanced placement.

*BESE*—Board of Elementary and Secondary Education.

*CPR*—cardiopulmonary resuscitation.

*CTE*—career/technical education.

*CTSO*—career and technical student organizations.

*CTTIE*—career and technical trade and industrial education.

*DECA*—An association of marketing students.

*FBLA*—Future Business Leaders of America.

*FCCLA*—Family, Career, and Community Leaders of America.

*FFA*—National FFA Organization.

*GED*—General Educational Development test.

*GEE 21*—Graduation Exit Examination for the 21st Century.

*GLEs*—grade-level expectations.

*HOSA*—Health Occupations Students of America.

*IDEA*—Individuals with Disabilities Education Act; the special education law.

*IAP*—individualized accommodation program.

*LDE*—Louisiana Department of Education.

*IB*—international baccalaureate.

*IBC*—industry-based certification.

*IEP*—individualized education program.

*JROTC*—Junior Reserve Officer Training Corps.

*LEA*—local education agency.

*LEAP 21*—Louisiana Educational Assessment Program for the 21st Century.

*LHSAA*—Louisiana High School Athletic Association.

*LMA*—Louisiana Montessori Association.

*MFP*—Minimum Foundation Program.

*MPS*—minimum proficiency standards.

*NAEP*—national assessment of educational progress.

*NCLB*—No Child Left Behind.

*OFAT*—out-of-field authority to teach.

*SAE*—supervised agriculture experience.

*SAPE*—substance abuse prevention education.

*TAT*—temporary authority to teach.

*TSA*—Technology Student Organization.

*TOPS*—Taylor Opportunity Program for Students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:2230 (August 2013).

### §3703. Definitions

*Academic Endorsement*—recognition for high school graduates who meet requirements listed in §2318 which are above the requirements of a standard diploma.

*Academically Able Student*—a student who is functioning at grade level as determined by the local school system. For special education students identified in accordance with *Bulletin 1508—Pupil Appraisal Handbook*, the IEP committee shall determine the student's eligibility to receive foreign language instruction, provided the student is performing at grade level.

*Accommodation*—any technique that alters the academic setting or environment. An *accommodation* generally does not change the information or amount of information learned. It enables students to show more accurately what they actually know.

*Activity Class*—any class such as band, theatre, or chorus for which a large class size is acceptable due to the nature of the instruction.

*Adapted Physical Education*—specially designed physical education for those exceptional students for whom significant deficits in the psychomotor domain have been identified according to *Bulletin 1508—Pupil Appraisal Handbook*, and who, if school-aged, are unable to participate in regular physical education programs on a full-time basis.

*Adult Education*—instruction below the college level for adults who have not been awarded a regular high school diploma and who are not currently required to be enrolled in school.

*Advanced Placement Program*—the *Advanced Placement Program* of the College Board gives students the opportunity to pursue college-level studies while still in secondary school and to receive advanced placement and/or credit upon entering college.

*Alternative School/Program*—an educational school/program that deviates from the standards stated in Bulletin 741 in order to meet the specific needs of a particular segment of students within the community. There are two types of *alternative schools/programs*:

1. alternative within regular education:
  - a. the curriculum addresses state standards; and
  - b. upon graduation, students earn a state-approved diploma;
2. alternative to regular education:
  - a. the curriculum does not address state standards; and
  - b. upon graduation, students do not earn a state-approved high school diploma.

*Alternative to Regular Placement*—placement of students in programs that are not required to address BESE performance standards.

*Approved School*—a public or nonpublic school that has an approval classification based upon a degree of compliance with standards/regulations prescribed by BESE.

*Area of Concentration*—a coherent sequence of courses or field of study that prepares a student for a first job and/or further education and training. It includes four sequential related credits in a specific area plus two credits in a related field; one must be a basic computer course.

*Articulated Credit*—promotes a smooth transition from secondary to postsecondary education. It serves as a vehicle for high school students to earn postsecondary credit while enrolled in high school or upon entering postsecondary study.

*Assessment*—the act or process of gathering data in order to better understand the strengths and weaknesses of a student learning as by observation, testing, interviews, etc.

*Attendance (Half-Day)*—a student is considered to be in attendance for one-half day when he or she:

1. is physically present at a school site or is participating in an authorized school activity; and
2. is under the supervision of authorized personnel for more than 25 percent but more than half (26-50 percent) of the student's instructional day.

*Attendance (Whole-Day)*—a student is considered to be in attendance for a whole day when he or she:

1. is physically present at a school site or is participating in an authorized school activity; and
2. is under the supervision of authorized personnel for more than 50 percent (51-100 percent) of the student's instructional day.

*BESE Policy*—a comprehensive statement that has been adopted by BESE pursuant to the APA process and that has the force and effect of law to govern and to bring uniformity in education throughout Louisiana

*Career Major*—a coherent sequence of courses or field of study that prepares a student for a first job and/or further education and training. It includes four sequential related credits in a specific area plus two credits in a related field; one must be a basic computer course.

*Career Technical Endorsement*—an endorsement beyond a regular diploma which has the purposes of enhancing a student's junior/senior years and providing a "credential" for postsecondary work with specific performance indicators that include industry-based certification and/or articulated credit and work-based learning.

*Class Size*—the maximum enrollment allowed in a class or section.

*Co-Curricular Activities*—those activities that are relevant and supportive, that are an integral part of the program of studies in which the student is enrolled, and that are under the supervision and/or coordination of the school instructional staff.

*Cooperative Education*—programs that provide opportunities for career and technical education students to receive on-the-job training and related classroom instruction in the areas of agriculture, business, health, family and consumer science, marketing, and trade and industrial education programs.

*Credit Exam*—an examination for the purpose of verifying a student has mastered a course taken under conditions that do meet the requirements for awarding Carnegie credit, such as teacher certification or time requirements.

*Cultural Arts*—that subject area that includes music, arts and crafts, and the fine arts.

*Cumulative Record*—a current record of academic, health, and other special types of information maintained for each student throughout his progress in school.

*Education Records*—

1. those records, files, documents, and other materials which:

a. contain information directly related to a student; and

b. are maintained by an educational agency or institution or by a person acting for such agency or institution.

2. The term *education records* does not include:

a. records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

b. records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

c. in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

d. records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

*Elementary School*—a school composed of any span of grades kindergarten through the eighth grade.

*Evaluation*—the in-depth process of review, examination, and interpretation of intervention efforts, test results,

interviews, observations, and other assessment information relative to predetermined criteria.

*Exceptional Child*—a child who is evaluated in accordance with *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 17:1941 et seq.) and who is determined according to *Bulletin 1508—Pupil Appraisal Handbook*, to have an exceptionality that adversely affects educational performance to the extent that special education is needed.

*Extracurricular Activities*—those activities which are not directly related to the program of studies, which are under the supervision and/or coordination of the school instructional staff, and which are considered valuable for the overall development of the student.

*Fine Arts*—those arts produced or intended primarily for beauty rather than utility, such as music, dance, drama, and the visual arts (i.e., drawing, painting, sculpture).

*Five-Year Educational Plan*—the plan developed by each student by the end of the eighth grade with the input of his/her family. The plan shall include a sequence of courses which is consistent with the student's stated goals for one year after graduation. Each student's *five-year educational plan* shall be reviewed annually thereafter by the student, parents, and school advisor, and revised as needed.

*Gifted*—children or youth who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

*Grade-Level Expectations (GLE)*—the concepts and skills that students should master at the end of a grade or course.

*Homebound Student*—a student who is enrolled in regular education and who, as a result of healthcare treatment, physical illness, accident, or the treatment thereof, is temporarily unable to attend school, and who is provided instructional services in the home or hospital environment.

*Home Study Program (Approved)*—program in which an approved curriculum can be implemented under the direction and control of a parent or a tutor (i.e., court-appointed guardian under Louisiana law).

*Individualized Education Program (IEP)*—a written statement of specially designed instruction developed, reviewed and revised by a group of qualified education personnel and the parent/guardian for each student with an exceptionality in public schools.

*Industry-Based Certification*—a portable recognized credential (tangible evidence) that an individual has successfully demonstrated skill competencies on a core set of content and performance standards in a specific set of work related tasks, single occupational area, or a cluster of related occupational areas.

*Instructional Time*—shall include the scheduled time within the regular school day devoted to teaching courses outlined in the program of studies. *Instructional time* does not include such things as recess, lunch, change of class time, and parent-teacher conferences.

*Internship*—student *internships* are situations where students work for an employer for a specified period of time to learn about a particular industry or occupation. Students' workplace activities may include special projects, a sample of tasks from different jobs, or tasks from a single occupation. These may or may not include financial compensation.

*Language Arts*—a broad subject area which includes reading, literature, speaking, listening, oral and written composition, English grammar, and spelling. (Foreign language may be included as part of the language arts program.)

*Least Restrictive Environment*—the educational placement of an exceptional child in a manner consistent with the *least restrictive environment* requirements in of *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and R.S. 17:1941 et seq.

*Local Educational Agency (LEA)*—a public board of education or other public authority legally constituted within the state either to provide administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, parish school district, or other political subdivision of the state. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public charter school that is established as an LEA under state law.

*Locally Initiated Elective*—an elective course developed and approved by an LEA according to the standards in §2315 and reported to the LDE.

*Minimum Standards for Career/Technical Education*—requirements that shall be met by local education governing agencies to be eligible for reimbursement in vocational education programs.

*Modification*—any technique that alters the work product in some way that makes it different from the work required of other students in the same class. A *modification* generally does change the work format or amount of work required of students. It encourages and facilitates academic success.

*Paraprofessional*—a person who is at least 18 years of age, possesses a certificate of good health signed by a physician, possesses an appropriate permit, and assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the responsibility for the delivery of services to exceptional children.

*Paraprofessional Training Unit*—a setting that may be used for the self-help training (toilet-training, dressing skills, grooming skills, feeding skills, and pre-academic readiness activities) of children with severe/profound disabilities or preschool children. A school-aged unit may be comprised of no more than six paraprofessionals. A preschool unit may be comprised of no more than four paraprofessionals. All units must be supervised directly by a certified special education teacher. Each paraprofessional must have a full quota of students (three) before an additional paraprofessional can be added to the unit. A *paraprofessional training unit* must be approved by the Office of Special Educational Services for the LDE in accordance with operational standards established by BESE.

*Pre-Kindergarten*—developmental programs for children ages 3-4, the minimum age being three by September 30 of the school year in which the student enters pre-kindergarten.

*Principal*—in a school, the chief administrative officer certified by the state Department of Education, except in the case of special schools in which the superintendent may be designated as the chief school administrator.

*Procedures*—specific actions or steps developed and required by the LDE to implement standards or regulations of BESE.

*Proficiency Exam*—an examination taken by a student to demonstrate mastery of a course they have not taken.

*Public School*—a school operated by publicly elected or appointed school officials and supported primarily by public funds.

*Public School System Accreditation*—an accreditation classification, which is based upon the fifth-year, on-site verification of the annual system and school reports, and which is granted by the state Department of Education.

*Pupil Appraisal Personnel*—professional personnel who meet the certification requirements for school personnel for such positions and who are responsible for delivery of pupil appraisal services included in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* (R.S. 17:1941 et seq.) and *Bulletin 1508—Pupil Appraisal Handbook*.

*School Building Level Committee*—a committee of at least three school level staff members. It shall be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included, such as the school counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a decision-making group that meets on a scheduled basis to solve problems or address concerns from teachers, parents, or other professionals on individual students who are experiencing difficulty in school because of academic and/or behavior problems. In most cases, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal services for an individual evaluation.

*Senior Project*—a project that provides high school seniors with an opportunity to conduct in-depth research in an area of interest, and to demonstrate problem-solving, decision-making, and independent learning skills. The project consists of a research paper, a portfolio of project activities, a product, and an oral presentation to a panel of teachers and community leaders. During this process, the student is advised by a teacher serving as a senior project advisor and a product mentor who has experience in the student's field of study.

*Special Education*—specially designed instruction, at no cost to the parent, to meet the unique needs of the student with an exceptionality.

*Talented*—children or youth who give evidence of measurable abilities of unique talent in visual and/or performing arts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:2231 (August 2013).

Heather Cope  
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1308#012

## RULE

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Scholarship/Grant Programs—GO Grant Framework (LAC 28:IV.Chapter 12)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5, and R.S. 17:3048.6). (SG13144R)

#### Title 28 EDUCATION

#### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

#### Chapter 12. Louisiana GO Grant

#### §1201. General Provisions

##### A. Legislative Authority

1.a. In accordance with the requirements of Act 695 of the 2004 Regular Session of the Legislature, the Board of Regents developed the GO Grant Program. The program was reviewed and approved by both the Senate Committee on Education and the House Committee on Education on April 12, 2007.

b. Act 655 of the 2010 Regular Session of the Legislature establishes the GO Grant Program in R.S. 17:3046 and 3046.1. The Act provides that the Board of Regents shall establish the criteria for initial and continuing eligibility, the method for determining the award amount, and other requirements not otherwise provided in the statute. The act further provides that the GO Grant Program shall be administered by the Louisiana Student Financial Assistance Commission through the Louisiana Office of Student Financial Assistance.

2. The Louisiana Office of Student Financial Assistance (LOSFA) administers the GO Grant Program in accordance with R.S. 17:3046 and a memorandum of understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission.

B. Description and Purpose. The Louisiana GO Grant assists those students who can demonstrate financial need to pay for the cost of postsecondary education. The GO Grant is used to pay a portion of the cost of attendance at an eligible Louisiana institution.

##### C. Award Amount

1. The minimum and maximum annual award amounts and the lifetime award amount, if any, shall be established by the Board of Regents on an annual basis and such amounts shall be published by LOSFA to the eligible Louisiana institutions.

2. Each institution shall determine the award amounts for eligible students at that institution based on the requirements in these rules, the allocation to the institution, the institution's financial aid packaging policy, and the guidance established by the Board of Regents and published by LOSFA.

D. The total amount awarded for GO Grants during any academic year is limited to the total amount appropriated for the award for the academic year. Eligibility for an award

during any particular semester, quarter or term does not guarantee that a student will receive the GO Grant in a subsequent semester, quarter or term.

E. Allocation of Funds. The amount allocated to an eligible institution will be determined by dividing the amount of the institution's prior year's allocation that was expended by the total amount appropriated for that academic year multiplied by the total amount appropriated for the current year.

F. Reallocation of Funds. Uncommitted funds allocated to a particular institution shall be reallocated if not committed by the deadline set by LOSFA. Uncommitted funds shall be apportioned among those institutions that have committed all funds allocated to the institution before the deadline, and have students who are eligible for an award and did not receive it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2614 (December 2007), amended LR 34:236 (February 2008), LR 35:2349 (November 2009), LR 39:2234 (August 2013).

#### §1203. Definitions

A. The following definitions shall be applicable to the Louisiana GO Grant Program. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

*Academic Year*—the *academic year* begins with the fall semester or term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring semester or term of the award year. Summer terms are not included in the *academic year* unless authorized by the Board of Regents and only if the post-secondary institution provides students with Pell Grants or financial need grants during the summer session.

*Administering Agency*—the Louisiana Student Financial Assistance Commission through the Louisiana Office of Student Financial Assistance (LOSFA).

*Cost of Attendance*—the total cost for a student to attend a particular eligible Louisiana institution, usually expressed as an academic year figure. This cost shall be determined by the institution attended in compliance with title IV of the Higher Education Act of 1965, as amended, and shall be annually updated and adopted by the institution.

*Dependent Student*—a student who does not qualify as an independent student for purposes of qualifying for title IV aid.

*Eligible Louisiana Institution*—

a. Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; and

b. Louisiana public colleges that have been granted regional candidacy status, but are not yet eligible to participate in title IV programs. Candidacy status institutions must require students to complete a FAFSA and the institution must determine a student's eligibility in accordance with rules under this Chapter.

*Enrollment*—registration in programs of study at an eligible Louisiana institution.



*Excess Award*—an award in excess of what is authorized by these rules and the guidance established by the Board of Regents and published by LOSFA.

*Expected Family Contribution (EFC)*—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

*Federal Pell Grant*—the Pell Grant provided under title IV of the Higher Education Act of 1965, as amended.

*Financial Need*—the student's costs of attendance at the institution attended minus the expected family contribution (EFC).

*Financial Need Grant*—an institutional grant provided by the state for students with financial need as evidenced by the data reported on the FAFSA at a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program.

*Full-Time*—a student enrolled in an eligible Louisiana institution who is considered *full-time* by the school.

*Go Grant Award Amount*—the award amount actually paid during an academic year.

*Half-Time*—a student enrolled in an eligible Louisiana institution who is not full-time but is enrolled in at least six semester credit hours, or four hours at a term school.

*Independent Student*—a student who meets at least one of the criteria listed in Subparagraphs a-f or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

- a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;
- b. is currently serving on active duty for purposes other than training or is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;
- c. is an orphan or a ward of the court or was a ward of the court until age 18;
- d. has legal dependents other than a spouse;
- e. is a graduate or professional student;
- f. is married.

*Less Than Half-Time*—a student enrolled in an eligible Louisiana institution who is not full-time and is enrolled in less than six semester credit hours or four hours at a term school.

*Louisiana Resident*—

- a. a dependent or independent student whose true, fixed, and permanent home of residence is Louisiana as reported on the free application for federal student aid (FAFSA);
- b. a dependent student whose non-custodial parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency;
- c. a dependent student whose parent is transferred out of Louisiana temporarily by his/her employer and that parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency;

- d. a dependent student whose parent is on active duty in the armed forces and who is stationed in Louisiana under permanent change of station orders, or an independent student who is on active duty military status in the armed forces and is stationed in Louisiana under permanent change of station orders;

- e. if the dependent or independent student does not report Louisiana as his true, fixed, and permanent home of residence as Louisiana on the FAFSA, the administering agency may require an independent student applicant or the parent of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voter registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

*Satisfactory Academic Progress*—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a GO Grant recipient is enrolled for measuring a student's progress in his or her educational program.

*Undergraduate Program*—a program of study that is designed to lead to a certificate or undergraduate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2615 (December 2007), amended LR 34:236 (February 2008), LR 35:647 (April 2009), LR 35:2349 (November 2009), LR 36:2853 (December 2010), LR 39:2234 (August 2013).

### **§1205. Initial Eligibility**

A. To be initially eligible for a Louisiana GO Grant, a student must:

1. complete the free application for federal student aid for the year during which he intends to enroll in college;
2. be a Louisiana resident;
3. receive a federal Pell Grant or a financial need grant;
4. have remaining financial need; and
5. be enrolled in an undergraduate program on at least a half-time basis at an eligible Louisiana institution through the fourteenth class day for semester schools, or the ninth class day for quarter and term schools, or for any qualifying summer sessions, at the end of the last day to drop and receive a full refund for the full summer session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December

2010, LR 37:1389 (May 2011), LR 38:1953 (August 2012), LR 39:2235 (August 2013).

### **§1207. Continuing Eligibility**

A. A student's eligibility will be reevaluated on the same schedule as eligibility for a federal Pell Grant or a financial need grant is determined at the institution, but at least once annually.

B. To continue to be eligible for a Louisiana GO Grant, a student must:

1. complete the free application for federal student aid or the renewal application for each year he enrolls in college to be considered for a Pell Grant and the Go Grant;

2. continue to receive the federal Pell Grant or a financial need grant;

3. have remaining financial need; and

4. be enrolled in an undergraduate program on at least a half-time basis at an eligible Louisiana institution through the fourteenth class day for semester schools, or the ninth class day for quarter and term schools, or for any qualifying summer sessions, at the end of the last day to drop and receive a full refund for the full summer session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007), amended LR 34:238 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010), LR 39:2236 (August 2013).

### **§1209. Responsibilities of Eligible Louisiana Institutions**

#### **[Formerly §1211]**

#### **A. Initial Eligibility**

1.a. Eligible Louisiana institutions must determine whether the student meets the criterion in Subparagraph a of the definition of *Louisiana resident* in §1203.

b. If this criterion is not met, the student may request that LOSFA make a determination of residency under Subparagraph e of the definition of *Louisiana resident* in §1203.

2. Eligible Louisiana institutions must determine whether a student meets the initial eligibility criteria enumerated in §1205.

B. Continuing Eligibility. Eligible Louisiana institutions must determine whether a student meets the continuing eligibility criteria enumerated in §1207 on the same schedule as eligibility for a Pell Grant or a financial need grant is determined at the institution, but at least once annually.

#### **C. Packaging Policy**

1. Eligible Louisiana institutions must establish and use a policy on GO Grant packaging that provides:

a. procedures for compliance with these rules and the guidance established by the Board of Regents and published by LOSFA for determining the award amount;

b. record retention to comply with Subsection I of this Section;

c. the basis used to establish any award amount that is less than the maximum award amount allowed;

d. procedures for distribution of GO Grant funds that ensure the grant is provided to students with the most financial need;

e. priority for students who are 25 or over;

f. awards amounts for less than full-time students;

and

g. procedures for identification of transfer students and ensuring transfer students receive awards on the same basis as home students.

2. Eligible Louisiana institutions must revise the institution's GO Grant packaging policy as necessary to reflect changes to the GO Grant Program rules or guidance issued by the Board of Regents or both.

D. Award Amount. Eligible Louisiana institutions must establish the award amounts for each individual student based on the institution's financial aid packaging policy. The amount awarded must comply with the requirements and limitations established in these rules and the guidance published by LOSFA.

E. Submission of Payment Requests. Each semester, quarter or term, eligible Louisiana institutions shall submit a payment request to LOSFA for students enrolled at the institution who have been determined eligible for a Louisiana GO Grant as follows:

1. for each student eligible for a Louisiana GO Grant who is enrolled at the end of the fourteenth class day for semester schools, or the ninth class day for quarter and term schools, or for any qualifying summer sessions, at the end of the last day to drop and receive a full refund for the full summer session;

2. the payment request shall include the:

a. Social Security number;

b. college code;

c. term;

d. date;

e. hours attempted;

f. award amount; and

g. amount requested for each student.

3. for students who are enrolled in more than one eligible Louisiana institution, the home school (school paying the Pell Grant or a financial need grant) is responsible for submitting a payment request for the Go Grant based on the total hours enrolled at all institutions.

#### **F. Over Payments**

1. No institution shall submit a payment request for GO Grant funds which would result in a student receiving an annual total of more than is authorized in §1201.C.

2. Eligible Louisiana institutions certify by submitting a payment request for a GO Grant that the institution will reimburse LOSFA:

a. for the total amount of any award that is disbursed to ineligible students; and

b. for any amount of an award that is in excess of the maximum annual award or in excess of the maximum lifetime award (if one is established).

G. Excess Award. In the event an excess award occurs during the fall semester or quarter or the winter quarter due to receipt of additional gift aid, the school shall reduce the award amount for the spring accordingly. In the event an excess award occurs during the spring semester or quarter due to receipt of additional gift aid, the school shall document the reason for the excess award.

H. Over Award. In the event the student's total aid exceeds his financial need or the cost of attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Louisiana GO Grant, then a

TOPS award, if applicable, shall be reduced by the amount of any remaining over award.

I. Records Retention. Records pertaining to Louisiana GO Grant awards are subject to audit as required by LASFAC, the Louisiana Board of Regents, and the Louisiana Legislative Auditor. Eligible Louisiana institutions shall maintain all records for a minimum of three years from creation. All such records shall be made available upon request by LASFAC, the Louisiana Board of Regents and/or the Louisiana Legislative Auditor.

J. Each eligible Louisiana institution shall provide a copy of its GO Grant packaging policy as required by §1209.C to LOSFA, when requested.

K. Audits. Eligible Louisiana institutions that participate in the Louisiana GO Grant Program grant LOSFA and the Louisiana Legislative Auditor the right to inspect records and perform on-site audits of each institution's administration of the program for the purpose of determining the institution's compliance with state law and applicable rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010), repealed LR 39:2237 (August 2013).

#### **§1211. Responsibilities of Eligible Louisiana Institutions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:2349 (November 2009), LR 36:2853 (December 2010), repealed LR 39:2237 (August 2013).

#### **§1213. Responsibilities of LOSFA**

A. LOSFA shall pay each eligible Louisiana institution the amount requested by the eligible Louisiana institution in accordance with the provisions of §1209.

B. LOSFA shall publish to the eligible Louisiana institutions on an annual basis:

1. the minimum and maximum annual awards, and the maximum lifetime award, if any;
2. any limitations on awards;
3. any changes in requirements for calculation of awards; and
4. any other changes in the program made by the Board of Regents.

C. LOSFA shall determine the residency of students who do not meet the criteria enumerated in Subparagraph a of the definition of *Louisiana resident* in §1203 and notify eligible Louisiana institutions of its determination(s).

D. LOSFA shall maintain a database of all students who have received the GO Grant, included social security number, college code, term, date, hours attempted, award amount, annual amount received, and aggregate amount received. In the event LOSFA receives a payment request in an amount that would exceed the maximum amount payable to a student, LOSFA will require the school to rebill.

#### **E. Adequacy of Funding**

1. After the receipt of fall semester or term payment requests, LOSFA shall determine whether sufficient funds are available to pay all anticipated awards for subsequent semesters, terms and sessions of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. LOSFA will provide to the Board of Regents information that is necessary to determine appropriate funding amounts upon the request of the Board of Regents.

F. LOSFA shall audit eligible Louisiana institutions to ensure compliance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:2350 (November 2009), LR 36:2853 (December 2010), LR 39:2237 (August 2013).

#### **§1215. Responsibilities of LASFAC**

A. LASFAC shall promulgate administrative rules in accordance with the Administrative Procedure Act, in consultation with the Louisiana Board of Regents and in accordance with a memorandum of understanding entered into by and between LASFAC and the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2618 (December 2007), amended LR 39:2237 (August 2013).

#### **§1217. Responsibilities of the Board of Regents**

A. At least on an annual basis, the Board of Regents shall review the amount appropriated for this program, and:

1. determine the minimum and maximum amount to be received by students attending school;
2. determine whether there is a maximum lifetime award and, if so, set the maximum;
3. determine what, if any, limitations should be placed on awards;
4. establish any changes in requirements for calculation of awards; and
5. provide for any other changes in the program.

B. The Board of Regents shall provide notice to LOSFA of any changes to the program in sufficient time to allow timely implementation.

C. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:2350 (November 2009), amended LR 36:2853 (December 2010), LR 39:2237 (August 2013).

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## RULE

### Tuition Trust Authority Office of Student Financial Assistance

START Saving Program—2012 Interest Rate  
(LAC 28:VI.311 and 315)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.) (ST13145R)

#### Title 28 EDUCATION

#### Part VI. Student Financial Assistance—Higher Education Savings

#### Chapter 3. Education Savings Account

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

A. - G. ...

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

I. - I.2.b. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013).

#### §315. Miscellaneous Provisions

A. - B.26. ...

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

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

C. - S.2. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November

2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013).

George Badge Eldredge  
General Counsel

1308#008

## RULE

### Department of Environmental Quality Office of the Secretary Legal Division

Control of Emissions of Organic  
Compounds—Fugitive Emission Control  
(LAC 33:III.2121, 2122, and 2199)(AQ313)

Editor's Note: A hearing pursuant to R.S. 49:968(H)(2) was not conducted to incorporate changes within the following Rule.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2121, 2122 and 2199, Appendix B (AQ313).

This Rule revises air regulations for fugitive emission control in attainment and nonattainment areas, LAC 33:III.2121 and 2122. Several definitions have been added to conform to definitions in the federal new source performance standards (NSPS) of 40 CFR 60. Under the control requirements, leak definitions are expanded to include leaks that can be imaged by an optical gas imaging instrument when following the federal alternative work practice (AWP) as described in 40 CFR 60.18. Under the monitoring requirements, the regulations have been changed to allow substitution of optical gas imaging and method 21 monitoring per the federal AWP.

The fugitive emission control for ozone nonattainment areas regulations (LAC 33:III.2122) have been changed to clarify conflicting requirements for leaks detected by visual, audible, or olfactory means. This Rule clarifies the conflicting requirements for pumps and valves in heavy liquid service, specifically, LAC 33:III.2122.C.1.d, D.3.b, and D.4.b.

In the control requirements Subsection, the open-ended line and double block and bleed provisions of LAC 33:III.2122.C.2 have been clarified and expanded utilizing language from the federal regulations. In the control requirements section, conditions have been added to verify when a repair is successful. In addition, conditions have been added under which equipment may be removed from the delay of repair list.

In the monitoring requirements Subsection, the alternative monitoring program exemption for facilities that already have a more stringent LDAR program at the time of initial promulgation has been expanded to include the Louisiana Consolidated Fugitive Emission Program (LCFEP). The

LCFEP provides a mechanism for affected facilities to consolidate overlapping state and federal LDAR programs. A description of the program has been placed in the Chapter 21 appendix (LAC 33:III.2199, Appendix B).

Similar changes have been made for the fugitive emission control regulation (LAC 33:III.2121). The changes for LAC 33:III.2121 and 2122 do not modify the leak definitions and will not alter the position of LAC 33:III.2121 and 2122 in the Louisiana Consolidated Fugitive Emission Program stringency table.

The basis and rationale for this Rule is that LAC 33:III.2121 (Fugitive Emission Control) and LAC 33:III.2122 (Fugitive Emission Control for Ozone Nonattainment Areas and Specified Parishes) require establishment of equipment leak monitoring and repair programs for specific industries in order to minimize emission of volatile compounds into the air.

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 21. Control of Emission of Organic Compounds**

**Subchapter A. General**

**§2121. Fugitive Emission Control**

A. Applicability. This Section is applicable to each process unit at petroleum refineries, natural gas processing plants, synthetic organic chemical manufacturing industry (SOCMI) facilities, methyl tertiary butyl ether (MTBE) manufacturing facilities, and polymer manufacturing facilities that contains any of the following components that operate in volatile organic compound (VOC) service for 300 hours or more during the calendar year:

1. - 9. ...

B. Definitions. Terms used in this Section are defined in LAC 33:III.111.A of these regulations with the exception of those terms specifically defined in this Section as follows.

*Alternative Work Practice (AWP)*—the use of optical imaging to detect leaks as described in 40 CFR 60.18(g), (h) and (i).

*Connector*—flanged, screwed, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. Joined fittings welded completely around the circumference of the interface are not considered *connectors*.

*Difficult-to-Monitor*—equipment that cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

*Double Block and Bleed System*—two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

*Equipment*—each pump, compressor, pressure relief device, open-ended valve or line, process drain, valve, agitator, instrumentation system, and connector in VOC service. For the purpose of these regulations *equipment* shall be synonymous with component.

*Force Majeure*—an event that will be or has been caused by circumstances beyond the control of the affected

facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are:

- a. acts of nature;
- b. acts of war or terrorism; or
- c. equipment failure or safety hazard beyond the control of the affected facility.

*In Gas/Vapor Service*—equipment that contains a VOC in a gas or vapor state at operating conditions.

*In Heavy Liquid Service*—equipment that is not in gas/vapor service or in light liquid service.

*In Light Liquid Service*—

a. equipment containing a fluid that meets all of the following conditions:

i. the vapor pressure of one or more of the organic compounds is greater than 0.3 kPa (0.0435 psi) at 20°C (68°F) (Standard reference texts or ASTM D2879-83, 96, or 97 shall be used to determine the vapor pressure.);

ii. the total concentration of the pure organic compounds having a vapor pressure greater than 0.3 kPa at 20°C is equal to or greater than 20 percent by weight; and

iii. the fluid is a liquid at operating conditions;

b. as an alternative to Subparagraph a of this Paragraph, an owner or operator of petroleum refineries, natural gas processing plants, and polymer manufacturing facilities has the option to use ASTM Method D86-78, 82, 90, 95, or 96. The equipment is *in light liquid service* if the evaporated fluid weight is greater than 10 percent at 150°C (302°F).

*In Liquid Service*—equipment that is not in gas/vapor service.

*Inspect*—examine the component for visible, audible, or olfactory evidence of a leak.

*Instrumentation System*—a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow). Valves and connectors are the predominant types of equipment used in *instrumentation systems*; however, other types of equipment may also be included in these systems. Only valves nominally 0.5 inches or smaller and connectors nominally 0.75 inches or smaller in diameter are considered part of *instrumentation systems* for the purposes of this Section. Valves greater than nominally 0.5 inches and connectors greater than nominally 0.75 inches associated with *instrumentation systems* are not considered part of *instrumentation systems* and shall be monitored individually as a valve or connector.

*In Vacuum Service*—equipment operating at an internal pressure that is at least 20 inches of water (38 millimeters of mercury) below ambient pressure.

*In VOC Service*—

a. for petroleum refineries, SOCMI facilities, MTBE manufacturing facilities, and polymer manufacturing facilities:

i. a piece of equipment that contains or contacts a process fluid that is at least 10 percent VOC by weight;

b. for natural gas processing plants:

i. a piece of equipment that contains or contacts a process fluid that is at least 1.0 percent VOC by weight.

*Monitor(ed)*—determination of VOC concentration at equipment components in accordance with method 21 (see 40 CFR 60, Appendix A-7), or the *alternative work practice* as provided in this Section.

*Open-Ended Valve or Line*—any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

*Optical Gas Imaging Instrument*—an instrument that makes emissions visible that may otherwise be invisible to the naked eye.

*Process Drain*—any opening (including a covered or controlled opening) that receives or conveys wastewater into a wastewater system.

*Process Unit*—a facility, or any part thereof, that can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

*Process Unit Shutdown*—a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be effected. The following are not considered *process unit shutdowns*:

a. an unscheduled work practice or operational procedure that stops production from a process unit, or part of a process unit, for less than 24 hours;

b. an unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start-up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled *process unit shutdown*;

c. the use of spare equipment and technically feasible bypassing or isolating of equipment without stopping production; and

d. the idling of a process unit due to force majeure.

*Repair*—adjust or otherwise alter equipment in order to eliminate a leak.

*Unsafe-to-Monitor*—equipment that cannot be monitored without exposing monitoring personnel to immediate danger.

### C. Fugitive Emission Control Requirements

#### 1. Leak Limitations

a. No component listed in Paragraph A.1-9 of this Section shall be allowed to emit VOC:

i. exceeding an instrument reading of 10,000 parts per million (ppm), as determined by method 21 (40 CFR 60, Appendix A, as incorporated by reference in LAC 33:III.3003);

ii. which can be imaged when following the *alternative work practice (AWP)* as defined in Subsection B of this Section; or

iii. where visible, audible, or olfactory evidence indicate the presence of a leak.

#### 2. Open-Ended Valves or Lines

a. Each open-ended valve or line shall be equipped with a second valve, blind flange, plug, or cap. These sealing devices may only be removed when the line is in use (i.e., when a sample is being taken). When the line has been used

and is subsequently resealed, the upstream valve shall be closed first, followed by the sealing device.

b. When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves, but shall comply with Subparagraph C.2.a of this Section at all other times.

c. Open-ended valves or lines in emergency system(s) (e.g., pressure relief devices) which are designed to open automatically in the event of a process upset are exempt from the requirements of Subparagraph C.2.a of this Section.

d. Open-ended valves or lines containing asphalt, materials that would autocatalytically polymerize or would present an explosion, serious over pressure, or other safety hazard if sealed or equipped with a double block and bleed system are exempt from the requirements of Subparagraph C.2.a of this Section.

### 3. Leak Repair

a. The owner or operator shall make every reasonable effort to repair a leaking component, as described in Subparagraph C.1.a or Subparagraph D.3.b of this Section, within 15 calendar days of detection. A repair is considered successful if it meets any of the following conditions:

i. a component is *monitored* as defined in Subsection B of this Section (or remonitored) to verify that the instrument reading is below the applicable leak definition in Subparagraph C.1.a of this Section;

ii. a component that has been identified as leaking using the AWP, either meets Clause C.3.a.i of this Section, or the emissions are no longer visible using the AWP; or

iii. a component in liquid service that has been identified as leaking by visual, audible, or olfactory means, including, use of the soap bubble test for natural gas processing plants, either meets Clause C.3.a.i of this Section, or when visual, audible, or olfactory indications of the leak have been eliminated.

b. Equipment that cannot be repaired shall be placed on a delay-of-repair list, unless it can be isolated or bypassed to eliminate the leak. Equipment on the delay-of-repair list shall be repaired by the end of the next scheduled process unit shutdown. The *administrative authority* as defined in LAC 33:III.111.A reserves the right to take enforcement action pursuant to R.S. 30:2025, should it be determined that the total percentage of components on the delay-of-repair list is excessive or is causing damage to the public health or environment.

c. Equipment placed on the delay-of-repair list in accordance with Subparagraph C.3.b of this Section may be removed from the list if it meets any of the following conditions:

i. the equipment is monitored or imaged, and for two consecutive monthly periods, either the instrument readings are below the leak limitation specified in Subparagraph C.1.a of this Section or there are no visible emissions using an optical gas imaging instrument pursuant to the AWP; or

ii. the owner or operator has undertaken additional or extraordinary efforts to repair the leaking equipment, and subsequent monitoring or imaging

demonstrates that either the instrument readings are below the leak limitation in Subparagraph C.1.a of this Section, or there are no visible emissions using an optical gas imaging instrument pursuant to the AWP. Extraordinary efforts are nonroutine repair methods (e.g., sealant injection, clamp installation) or utilization of a closed-vent system to capture and control the leak by at least 90 percent.

(a). Note. The decision to monitor equipment on the delay-of-repair list or undertake extraordinary efforts to repair equipment shall be made solely at the owner or operator's discretion.

D. Monitoring and Inspection Requirements. Monitoring of components by method 21 and inspections shall be conducted according to this Subsection. After initially complying with this Subsection by use of method 21, the owner or operator may elect to comply with the appropriate alternate monitoring schedule(s) in Subsection E of this Section. In lieu of method 21 monitoring, optical imaging may be conducted in accordance with the AWP. If the owner or operator elects to use the AWP, the requirements for instrument specifications, instruments checks, monitoring frequency, leak survey procedures, recordkeeping, and reporting shall be followed as described in 40 CFR 60.18 (g), (h), and (i). The alternate monitoring schedule(s) in Subsection E of this Section are not applicable when using the AWP.

1. Petroleum refineries, SOCOMI facilities, MTBE manufacturing facilities, and polymer manufacturing facilities shall perform the following:

- a. monitor the following components one time per calendar year (annually):
  - i. pumps in light liquid service at refineries;
  - ii. valves in light liquid service at refineries; and
  - iii. process drains;
- b. monitor the following components four times per year (quarterly):
  - i. compressor seals;
  - ii. valves in gas/vapor service;
  - iii. pressure relief valves in gas/vapor service;
  - iv. valves in light liquid service at SOCOMI facilities, MTBE manufacturing facilities, and polymer manufacturing facilities; and
  - v. pumps in light liquid service at SOCOMI facilities, MTBE manufacturing facilities, and polymer manufacturing facilities;
- c. inspect pump seals visually 52 times a year (weekly);
- d. inspect instrumentation systems weekly by visual, audible, or olfactory means. As an alternative to weekly sensory inspections, monitor individual valves of an instrumentation system in accordance with Clauses D.1.a.ii, D.1.b.ii, or D.1.b.iv of this Section, as applicable;
- e. records of visual, audible, or olfactory inspections of connectors and instrumentation systems are not required unless a leak is detected.

2. Natural gas processing plants shall perform the following:

- a. inspect pump seals and compressor seals visually 52 times a year (weekly);
- b. monitor the following components four times a year (quarterly):
  - i. pumps in light liquid service;

- ii. compressor seals;
  - iii. valves in light liquid service and valves in gas/vapor service; and
  - iv. pressure relief valves in gas/vapor service;
- c. inspect instrumentation systems 52 times a year (weekly) by visual, audible, or olfactory means. As an alternative to weekly sensory inspections, monitor individual valves of an instrumentation system in accordance with Clause D.2.b.iii of this Section;
- d. records of visual, audible, or olfactory inspections of instrumentation systems are not required unless a leak is detected.

3. Facilities listed in Paragraphs D.1 and 2 of this Section shall perform the following:

- a. monitor any pressure relief valve in gas/vapor service within five calendar days after it has vented to the atmosphere. Difficult-to-monitor pressure relief valves shall be monitored within 15 calendar days and unsafe-to-monitor pressure relief valves shall be monitored as soon as possible, when conditions would allow the component to be safely monitored;
- b. within five calendar days, any component listed in Paragraphs A.1-9 of this Section identified as leaking by visual, audible, or olfactory means shall be:
  - i. repaired in accordance with Clause C.3.a.iii of this Section;
  - ii. monitored (using either Method 21 or the AWP); or
  - iii. designated as a leak (pursuant to Method 21 or the AWP);
- c. difficult-to-monitor components shall be monitored within 15 calendar days and unsafe-to-monitor components shall be monitored as soon as possible, when conditions allow the component to be safely monitored. Visual, audible, or olfactory leaks designated as a leak or confirmed to be in excess of the applicable leak limitation in Subparagraph C.1.a of this Section by Method 21 monitoring, shall be repaired according to Subparagraph C.3.a of this Section;
- d. difficult-to-monitor valves shall be monitored once per calendar year (annually);
- e. unsafe-to-monitor equipment shall be monitored as soon as possible when conditions allow the component to be monitored safely (e.g., during a shutdown);
- f. any valve that is designated for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of Clause D.1.a.ii, D.1.b.ii, D.1.b.iv, or D.2.b.iii of this Section if the valve:
  - i. has no external actuating mechanism in contact with the process fluid (e.g., diaphragm valves, sealed bellows valves);
  - ii. is operated with emissions less than 500 ppm above background as measured by method 21; and
  - iii. is monitored for compliance with Clause D.3.e.ii of this Section initially upon designation and once per calendar year thereafter;
- g. equipment that begins operation after the initial start-up date for the process unit shall be monitored for the first time by the end of the monitoring period in which the process unit start-up is completed, or 45 calendar days after the start-up period is completed, whichever is later.

equipment that replaces leaking equipment shall continue on the monitoring schedule for the equipment that it replaced;

h. monitoring to verify repairs that were made during a process unit shutdown shall occur by the end of the monitoring period in which the process unit start-up is completed, or 45 calendar days after the start-up period is completed, whichever is later.

4. Exemptions. Monitoring and inspections are not required on the following:

- a. check valves;
- b. pressure relief devices, pump seals or packing, and compressor seals or packing where leaks are vented to a process or fuel gas system, or equipped with a closed-vent system capable of transporting leakage to a control device;
- c. pressure relief devices equipped with a rupture disc, or other similar leak-tight pressure relief component, upstream of the pressure relief device; provided that after each pressure release, the rupture disc, or other similar leak-tight component is replaced as soon as practicable; but not later than 15 calendar days;
- d. equipment in vacuum service;
- e. equipment at natural gas processing plants with less than 40 million standard cubic feet per day rated capacity that do not fractionate natural gas liquids;
- f. components contacting only organic compounds exempted in LAC 33:III.2117 or mixtures of same with water;
- g. pumps and compressors that are sealless or have a double mechanical seal;
- h. pumps designed with no external shaft penetrating the pump housing;
- i. research and development pilot facilities and small facilities with less than 100 valves in gas/vapor or liquid service;
- j. insulated or buried equipment;
- k. components that have been placed on a delay-of-repair list are exempt from further monitoring until a repair has been attempted, except that an owner or operator may monitor components on the delay-of-repair list in accordance with Subparagraph C.3.c of this Section in order to remove equipment from the delay-of-repair list; and
- l. process drains that are components of individual drain systems subject to 40 CFR 60, subpart QQQ, 40 CFR 61, subpart FF, or 40 CFR 63, subparts G or YY.

5. Alternate Monitoring Program. Any facility that already has in place a fugitive emission monitoring program which controls emissions to a higher degree than required under this Section shall be exempted from this Section upon submittal of a description of the program to the *administrative authority\** as defined in LAC 33:III.111.A. A facility which has consolidated into an overall more stringent program in accordance with the Louisiana Consolidated Fugitive Emissions Program (i.e., with a Source Notice and Agreement or a Title V permit) is exempted from the requirement of submitting a description of the program to the administrative authority\*. (The Louisiana Fugitive Emission Program consolidation guidelines are contained in LAC 33:III.2199.Appendix B.)

6. Force Majeure

a. If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator

intends to assert a claim of force majeure, the owner or operator shall notify the administrative authority, in writing, as soon as practical following the date the owner or operator first knew, or through due diligence should have known that the event may cause or has caused a delay in monitoring beyond the regulatory deadline. The notification shall occur before the monitoring deadline unless the initial force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

b. The owner or operator shall provide to the administrative authority a written description of the force majeure event and a rationale for attributing the delay in monitoring beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the monitoring. The monitoring shall be conducted as soon as practicable after the force majeure occurs.

c. The decision to grant an extension to the monitoring deadline is solely within the discretion of the administrative authority. The administrative authority shall notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practical.

d. Until an extension of the monitoring deadline has been approved by the administrative authority under Subparagraph D.6.c of this Section, the owner or operator of the affected facility remains subject to the requirements of this Section.

E. Alternate Monitoring Frequency. The monitoring schedule in Paragraph D.1 or 2 of this Section may be modified as follows.

1. Alternate Standards for Valves and Pumps subject to Subparagraph D.1.b or D.2.b of this Section—Skip Period Leak Detection and Repair

a. An owner or operator may elect to comply with one of the alternate work practices specified in Subparagraph E.1.b or c of this Section. However, the administrative authority shall be notified in writing before one of the alternate work practices is implemented.

b. After two consecutive quarterly leak detection periods with the total percent of leaking and delay-of-repair components (Equation 1 of this Section) equal to or less than 2.0, an owner or operator may begin to skip one of the quarterly leak detection periods for valves in gas/vapor service, valves in light liquid service, and/or pumps in light liquid service.

c. After five consecutive quarterly leak detection periods with the total percent of leaking and delay-of-repair components (Equation 1 of this Section) equal to or less than 2.0, an owner or operator may begin to skip three of the quarterly leak detection periods for valves in gas/vapor service, valves in light liquid service, and/or pumps in light liquid service.

d. If the total percent of leaking and delay-of-repair components (Equation 1 of this Section) increases to greater than 2.0 after implementing one of the alternate work practices in Subparagraph E.1.b or c of this Section, the owner or operator shall comply with the requirements as described in Paragraph D.1 or 2 of this Section, but subsequently may elect to use this Subsection when the requirements are met.



2. Alternate Standards for Valves and Pumps Subject to Subparagraph D.1.b or D.2.b—Increased Monitoring Frequency. If the total percent of leaking and delay-of-repair components (Equation 1 of this Section) is greater than 2.0, then an increase in the frequency of monitoring may be required by the administrative authority.

3. The total percent of leaking and delay-of-repair components for which alternate control techniques are allowed by this Subsection shall be determined for each process unit using Equation 1. (Equation 1 shall be calculated separately for each component type.)

$$\%C_{T1} = [C_L + C_{TU}] / [C_T + C_{TU}] * 100\% \text{Equation 1}$$

where:

$\%C_{T1}$  = total percent of leaking components including delay-of-repair components

$C_L$  = number of components found leaking by Method 21 during the monitoring period, not including components re-monitored to verify repair or components on the delay-of-repair list at the end of the previous monitoring period

$C_{TU}$  = number of components on the delay-of-repair list at the end of the previous monitoring period

$C_T$  = number of components monitored by Method 21 during the monitoring period, not including components re-monitored to verify repair or components on the delay-of-repair list at the end of the previous monitoring period

#### F. Recordkeeping

1. When a component remains leaking after every reasonable attempt at repair within the 15-calendar day period provided by Subparagraph C.3.a of this Section has been exhausted, a weatherproof and readily visible tag bearing an identification number and the date the leak was located shall be affixed to the leaking component. After the leak has been repaired, the tag may be removed.

2. A survey log shall be maintained by the operator which shall include the following:

- a. the name of the process unit where the leaking component is located;
- b. the type of leaking component;
- c. the stream identification at the leak;
- d. the identification number from the tag required by Paragraph F.1 of this Section;
- e. the date the leak was located;
- f. the date maintenance was performed;
- g. the date the component was rechecked after maintenance, and the results (i.e., instrument reading; visual, audible, or olfactory results; soap bubble test results; AWP video);
- h. a record of the monitor calibration or AWP daily instrument check;
- i. a delay-of-repair list;
- j. a bypassed or isolated component list; and
- k. a record of all monitoring, imaging, and inspection results.

3. The owner or operator shall retain the survey log for two years after the latest date specified in Paragraph F.2 of this Section and make the log available to the administrative authority upon request.

4. The optional use of the AWP shall require storing video and other records of the daily instrument check and inspections as required in 40 CFR 60.18.

G. Reporting Requirements. The owner or operator of the affected facility shall submit a report semiannually to the Office of Environmental Services for each calendar quarter during the reporting period. The reports are due by the last day of the month (i.e., January 31 and July 31) following the monitoring period or by an alternate date approved by the administrative authority. The reports shall include the following information for each quarter of the reporting period:

1. the number of each component type for which monitoring is required by Subsection D or E of this Section versus the number monitored and the total percent of leaking and delay-of-repair components (see Equation 1 of this Section) for each component type for which alternate control techniques are allowed by Subsection E of this Section;

2. a listing of all leaks that were identified, but not repaired, within the 15-day limit, including the following information:

- a. the name of the process unit where the leaking component is located and the date of last unit shutdown;
- b. the type of the leaking component;
- c. the stream identification at the leak;
- d. the identification number from the tag required by Paragraph F.1 of this Section, if the component is on the delay-of-repair list;
- e. the date the leak was located;
- f. the monitoring or inspection results;
- g. the date maintenance was performed;
- h. the date the leak is expected to be repaired if the component is on the delay-of-repair list; and
- i. the reason repairs failed or were postponed;

3. a signed statement attesting to the fact that all requirements of this Section have been met.

**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 by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:1128 (November 1996), LR 22:1212 (December 1996), LR 24:22 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1433 (July 2000), LR 26:2452 (November 2000), LR 30:1659 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:70 (January 2008), amended by the Office of the Secretary, Legal Division, LR 39:2239 (August 2013).

### **§2122. Fugitive Emission Control for Ozone**

#### **Nonattainment Areas and Specified Parishes**

##### **A. Applicability**

1. This Section is applicable to each process unit at petroleum refineries, natural gas processing plants, synthetic organic chemical manufacturing industry (SOCMI) facilities, methyl tertiary butyl ether (MTBE) manufacturing facilities, and polymer manufacturing facilities that contains any of the following components that operate in volatile organic compound (VOC) service for 300 hours or more during the calendar year:

- a. - i. ...

2. The requirements of this Section shall be applicable to sources located in the parishes of Ascension, East Baton

Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge effective January 1, 1996.

3. The requirements of this Section shall be applicable to sources located in the parish of Calcasieu effective January 1, 2003.

4. When the provisions of this Section are effective, process units to which this Section applies that are also subject to the provisions of LAC 33:III.2121 will not be required to comply with the provisions of LAC 33:III.2121.

5. Facilities listed in Paragraph A.1 of this Section, which are subject to New Source Performance Standards, 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), as incorporated by reference in LAC 33:III.3003, or National Emission Standards for Hazardous Air Pollutants, 40 CFR 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.5116, may become exempt from this Section by:

a. submitting a written notice to the *administrative authority*\* as defined in LAC 33:III.111.A informing them of the facility's request to become exempt from this Section and how 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), as incorporated by reference in LAC 33:III.3003, or 40 CFR 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.5116, will be administered to obtain the exemption;

b. applying 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), as incorporated by reference in LAC 33:III.3003, or 40 CFR 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.5116, to leak limitations specified in Paragraph C.1 of this Section rather than 10,000 ppm as specified in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), as incorporated by reference in LAC 33:III.3003, or 40 CFR 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.5116;

c. including connectors as components monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), as incorporated by reference in LAC 33:III.3003, or 40 CFR 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.5116, which apply to valves; and

d. increasing the monitoring frequency of valves only when the valves monitored and repaired using the restrictions in 40 CFR 60.480-489 (Subpart VV), 60.590-593 (Subpart GGG), 60.630-636 (Subpart KKK), as incorporated by reference in LAC 33:III.3003, or 40 CFR 61.240-247 (Subpart V), as incorporated by reference in LAC 33:III.5116, which apply to valves, equal or exceed 2 percent of the valves leaking at or above 10,000 ppm.

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

*Alternative Work Practice (AWP)*—the use of optical imaging to detect leaks as described in 40 CFR 60.18(g), (h) and (i).

*Connector*—flanged, screwed, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. Joined fittings welded completely around the circumference of the interface are not considered *connectors*.

*Difficult-to-Monitor*—equipment that cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

*Double Block and Bleed System*—two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

*Equipment*—each pump, compressor, pressure relief device, open-ended valve or line, process drain, valve, agitator, instrumentation system, and connector that is in VOC service. For the purpose of these regulations *equipment* shall be synonymous with component.

*Force Majeure*—an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement within the specified time frame despite the affected facility's best efforts to fulfill the obligation. Examples of such events are:

- a. acts of nature;
- b. acts of war or terrorism; or
- c. equipment failure or safety hazard beyond the control of the affected facility.

*Good Performance Level*—Repealed.

*Heavy Liquid Service*—Repealed.

*Inaccessible Valve*—Repealed.

*In Gas/Vapor Service*—equipment that contains a VOC in a gas or vapor state at operating conditions.

*In Heavy Liquid Service*—equipment that is not in gas/vapor service or light liquid service.

*In Light Liquid Service*—

a. equipment containing a fluid that meets all of the following conditions:

i. the vapor pressure of one or more of the organic compounds is greater than 0.3 kPa (0.0435 psi) at 20°C (68°F). (Standard reference texts or ASTM D2879-83, 96, or 97 shall be used to determine the vapor pressure);

ii. the total concentration of the pure organic compounds having a vapor pressure greater than 0.3 kPa at 20°C is equal to or greater than 20 percent by weight; and

iii. the fluid is a liquid at operating conditions.

b. In the alternative to Subparagraph a of this Paragraph, an owner or operator of petroleum refineries, natural gas processing plants, and polymer manufacturing facilities has the option to use ASTM Method D86-78, 82, 90, 95, or 96. The equipment is *in light liquid service* if the evaporated fluid weight is greater than 10 percent at 150°C (302°F).

*In Liquid Service*—equipment that is not in gas/vapor service.

*In Vacuum Service*—equipment operating at an internal pressure that is at least 20 inches of water (38 millimeters of mercury) below ambient pressure.

*In VOC Service*—for petroleum refineries, SOCMF facilities, MTBE manufacturing facilities, and polymer manufacturing facilities; a piece of equipment that contains or contacts a process fluid that is at least 10 percent VOC by weight. For natural gas processing plants, a piece of equipment that contains or contacts a process fluid that is at least 1.0 percent VOC by weight.

*Inspect*—examine the component for visible, audible, or olfactory evidence of a leak.

*Instrumentation System*—a group of equipment components used to condition and convey a sample of the process fluid to analyzers and instruments for the purpose of determining process operating conditions (e.g., composition, pressure, flow). Valves and connectors are the predominant types of equipment used in *instrumentation systems*; however, other types of equipment may also be included in these systems. Only valves nominally 0.5 inches and smaller and connectors nominally 0.75 inches and smaller in diameter are considered *instrumentation systems* for the purposes of this Section. Valves greater than nominally 0.5 inches and connectors greater than nominally 0.75 inches associated with *instrumentation systems* are not considered part of *instrumentation systems* and shall be monitored individually as a valve or connector.

*Light Liquid*—Repealed.

*Light Liquid Service*—Repealed.

*Liquid Service*—Repealed.

*Monitor(ed)*—determination of VOC concentration at equipment components in accordance with Method 21 (see 40 CFR 60, Appendix A-7), or the *alternative work practice* as provided in this Section.

*Open-Ended Valve or Line*—any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

*Optical Gas Imaging Instrument*—an instrument that makes emissions visible that may otherwise be invisible to the naked eye.

*Process Drain*—any opening (including a covered or controlled opening) that receives or conveys wastewater into a wastewater system.

*Process Unit*—a facility, or any part thereof, that can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

*Process Unit Shutdown*—a work practice or operational procedure that stops production from a process unit or part of a process unit during which it is technically feasible to clear process material from a process unit or part of a process unit consistent with safety constraints and during which repairs can be effected. The following are not considered process unit shutdowns:

a. an unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours;

b. an unscheduled work practice or operational procedure that would stop production from a process unit or part of a process unit for a shorter period of time than would be required to clear the process unit or part of the process unit of materials and start-up the unit, and would result in greater emissions than delay of repair of leaking components until the next scheduled process unit shutdown;

c. the use of spare equipment and technically feasible bypassing or isolating of equipment without stopping production; and

d. the idling of a process unit due to force majeure.

*Repair*—adjust or otherwise alter equipment in order to eliminate a leak.

*Unrepairable Component*—Repealed.

*Unsafe-to-Monitor*—equipment that cannot be monitored without exposing monitoring personnel to immediate danger.

## C. Fugitive Emission Control Requirements

### 1. Leak Limitations

a. No component listed in Subparagraphs A.1.a-i of this Section in petroleum refineries, SOCOMI facilities, MTBE manufacturing facilities, and polymer manufacturing facilities shall be allowed to emit VOC:

i. exceeding an instrument reading of 1,000 parts per million (ppm) for valves, connectors, instrumentation systems, pressure relief devices, and process drains; 5,000 ppm for pumps and compressors; or 10,000 ppm for agitators, as determined by Method 21 (40 CFR 60, Appendix A, as incorporated by reference in LAC 33:III.3003);

ii. which can be imaged when following the *alternative work practice* (AWP) as defined in Subsection B of this Section; or

iii. where visible, audible, or olfactory evidence indicates the presence of a leak.

b. No component listed in Subparagraphs A.1.a-i of this Section in natural gas processing plants shall be allowed to emit VOCs exceeding an instrument reading of 2,500 ppm for valves, connectors, instrumentation systems, pressure relief devices, and process drains; 5,000 ppm for pumps and compressors 10,000 ppm for agitators, as determined by Method 21 (40 CFR 60, Appendix A, as incorporated by reference in LAC 33:III.3003), or which can be imaged when following the AWP described in 40 CFR 60.18.

### 2. Open-Ended Valves or Lines

a. Each open-ended valve or line shall be equipped with a second valve, a blind flange, a plug, or a cap. Such sealing devices may be removed only when the line is in use, (i.e., when a sample is being taken). When the line has been used and is subsequently resealed, the upstream valve shall be closed first, followed by the sealing device.

b. When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves, but it shall comply with Subparagraph C.2.a of this Section at all other times.

c. Open-ended valves or lines in emergency system(s) (i.e., pressure relief devices) that are designed to open automatically in the event of a process upset, are exempt from the requirements of Subsection C.2.a of this Section.

d. Open-ended valves or lines containing asphalt, materials that would autocatalytically polymerize or would present an explosion, serious overpressure, or other safety hazard if sealed or equipped with a double block and bleed system, are exempt from the requirements of Subparagraph C.2.a of this Section.

### 3. Leak Repair

a. The owner or operator shall make every reasonable effort to repair a leaking component, as described in Paragraph C.1 or Subparagraph D.3.b of this Section, within 15 calendar days of detection. A repair is considered successful if it meets any of the following conditions:

i. a component is monitored (or remonitored) to verify that the instrument reading is below the applicable leak definition in Paragraph C.1 of this Section;

ii. a component that has been identified as leaking using the AWP, either meets Clause C.3.a.i of this Section, or the emissions are no longer visible using the AWP; or

iii. a component in liquid service that has been identified as leaking by visual, audible, or olfactory means, including, use of the soap bubble test for natural gas processing plants, either meets Clause C.3.a.i of this Section, or when visual, audible, or olfactory indications of the leak have been eliminated.

b. Equipment that cannot be repaired shall be placed on a delay-of-repair list, unless it can be isolated or bypassed to eliminate the leak. Repair of equipment on the delay-of-repair list shall occur by the end of the next scheduled process unit shutdown. The *administrative authority* as defined in LAC 33:III.111.A reserves the right to take enforcement action pursuant to R.S. 30:2025, should it be determined that the total percentage of components on the delay-of-repair list is excessive or is causing damage to public health or the environment.

c. Equipment placed on the delay-of-repair list in accordance with Subparagraph C.3.b of this Section may be removed from the list if it meets any of the following conditions:

i. the equipment is monitored or imaged, and for two consecutive monthly periods, either the instrument readings are below the leak limitation specified in Paragraph C.1 of this Section or there are no visible emissions using an optical gas imaging instrument pursuant to the AWP; or

ii. the owner or operator has undertaken additional or extraordinary efforts to repair the leaking equipment, and subsequent monitoring or imaging demonstrates that either the instrument readings are below the leak limitation in Paragraph C.1 of this Section, or there are no visible emissions using an optical gas imaging instrument pursuant to the AWP. Extraordinary efforts are non-routine repair methods (e.g., sealant injection, clamp installation) or utilization of a closed-vent system to capture and control the leak by at least 90 percent.

(a). The decision to monitor equipment on the delay-of-repair list or undertake extraordinary efforts to repair equipment shall be made solely at the owner or operator's discretion.

D. Monitoring and Inspection Requirements. Monitoring of components by Method 21 and inspections shall be conducted according to this Subsection. After initially complying with this Subsection, the owner or operator may elect to comply with the appropriate alternate monitoring schedule(s) in Subsection E of this Section. In lieu of Method 21 monitoring, optical imaging may be conducted in accordance with the AWP. If the owner or operator elects to use the AWP, the requirements for instrument specifications, instruments checks, monitoring frequency, leak survey procedures, recordkeeping, and reporting shall be followed as described in 40 CFR 60.18 (g), (h), and (i). The alternate monitoring schedule(s) in Subsection E of this Section are not applicable when using the AWP.

1. Petroleum refineries, SOCFI facilities, MTBE manufacturing facilities, and polymer manufacturing facilities shall perform the following:

a. monitor process drains one time per calendar year (annually).

b. monitor the following components four times per year (quarterly):

i. compressor seals;

ii. pressure relief valves in gas/vapor service;

iii. valves in light liquid service and valves in gas/vapor service; and

iv. pumps in light liquid service;

c. inspect pump seals visually 52 times a year (weekly);

d. inspect or monitor all flanged connectors in accordance with either Clause D.1.d.i or ii of this Section;

i. inspect all flanged connectors weekly by visual, audible, or olfactory means.

ii. monitor flanged connectors in light liquid and gas/vapor service four times per year (quarterly) as follows:

(a). either 200 or 10 percent, whichever is less, of the flanged connectors shall be monitored each quarterly period in accordance with a written sampling plan.

(b). the sampling plan shall ensure that at least 66 percent of the flanged connectors monitored each quarterly period shall not have been previously monitored, until all flanged connectors within the process unit have been monitored;

e. inspect instrumentation systems weekly by visual, audible, or olfactory means. As an alternative to weekly sensory inspections, monitor individual valves and flanged connectors of an instrumentation system in accordance with Clauses D.1.b.iii and D.1.d.ii of this Section, respectively;

f. records of visual, audible, or olfactory inspections of connectors and instrumentation systems are not required unless a leak is detected.

2. Natural Gas Processing Plants shall perform the following:

a. inspect pump seals and compressor seals visually 52 times a year (weekly);

b. monitor the following components four times a year (quarterly):

i. pumps in light liquid service;

ii. compressor seals;

iii. pressure relief valves in gas/vapor service; and

iv. valves in light liquid service and valves in gas/vapor service;

c. inspect instrumentation systems 52 times a year (weekly) by visual, audible, or olfactory means. As an alternative to weekly sensory inspections, monitor individual valves of an instrumentation system in accordance with Clause D.2.b.iv of this Section;

d. records of visual, audible, or olfactory inspections of instrumentation systems are not required unless a leak is detected.

3. Facilities listed in Paragraphs D.1 and 2 of this Section:

a. monitor any pressure relief valve in gas/vapor service within five calendar days after it has vented to the atmosphere. Difficult-to-monitor pressure relief valves shall be monitored within 15 calendar days and unsafe-to-monitor pressure relief valves shall be monitored as soon as possible, when conditions allow the component to be safely monitored;

b. within five calendar days, any component listed in Subparagraphs A.1.a.-i of this Section identified as leaking by visual, audible, or olfactory means shall be:

i. repaired in accordance with Clause C.3.a.iii of this Section;

ii. monitored using either Method 21 or the AWP; or

iii. designated as a leak pursuant to Method 21 or the AWP;

c. difficult-to-monitor components shall be monitored within 15 calendar days and unsafe-to-monitor components shall be monitored as soon as possible, when conditions allow the component to be safely monitored. Visual, audible, or olfactory leaks either designated as a leak, or, confirmed to be in excess of the applicable leak limitation in Paragraph C.1 of this Section by Method 21 monitoring, shall be repaired according to Subparagraph C.3.a of this Section;

d. difficult-to-monitor valves shall be monitored once per calendar year;

e. unsafe-to-monitor equipment shall be monitored as soon as possible when conditions allow the component to be monitored safely (e.g., during a shutdown);

f. any valve that is designated for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of Clause D.1.b.iii or D.2.b.iv of this Section if the valve:

i. has no external actuating mechanism in contact with the process fluid (e.g., diaphragm valves, sealed bellows valves);

ii. is operated with emissions less than 500 ppm above background as measured by Method 21; and

iii. is monitored for compliance with Clause D.3.e.ii of this Section initially upon designation and once per calendar year thereafter.

g. equipment that begins operation after the initial startup date for the process unit shall be monitored for the first time by the end of the monitoring period in which the process unit startup is completed, or 45 calendar days after the startup period is completed, whichever is later. Equipment that replaces leaking equipment shall continue with the monitoring schedule for the equipment that it replaced;

h. monitoring to verify repairs that were made during a process unit shutdown shall occur by the end of the monitoring period in which the process unit startup is completed, or 45 calendar days after the startup period is completed, whichever is later.

4. Exemptions and inspections are not required on the following:

a. pressure relief devices, pump seals or packing, and compressor seals or packing where leaks are vented to a process or fuel gas system, or equipped with a closed-vent system capable of capturing and transporting leakage to a control device;

b. pressure relief devices equipped with a rupture disc, or other similar leak-tight pressure relief component, upstream of the pressure relief device; provided that after each pressure release, the rupture disc, or other similar leak-tight component is replaced as soon as practicable; but not later than 15 calendar days;

c. equipment in vacuum service;

d. equipment at natural gas processing plants with less than 40 million standard cubic feet per day rated capacity that do not fractionate natural gas liquids;

e. components contacting only organic compounds exempted under LAC 33:III.2117 or mixtures of same with water;

f. pumps and compressors that are sealless or have a double mechanical seal;

g. pumps designed with no external shaft penetrating the pump housing;

h. research and development pilot facilities and small facilities with less than 100 valves in gas/vapor or liquid service;

i. insulated or buried equipment;

j. components that have been placed on a delay-of-repair list are exempt from further monitoring until a repair has been attempted, except that an owner or operator may monitor components on the delay-of-repair list in accordance with Clause C.3.c.i of this Section in order to attempt to remove equipment from the delay-of-repair list;

k. check valves;

l. process drains that are components of individual drain systems subject to 40 CFR 60, subpart QQQ, 40 CFR 61, subpart FF, or 40 CFR 63, subparts G or YY; and

m. process drains at facilities subject to LAC 33:III.2153.

5. Alternate Monitoring Program. Any facility that already has in place a fugitive emission monitoring program which controls emissions to a higher degree than required under this Section shall be exempted from this Section upon submittal of a description of the program to the administrative authority\* and approval thereof. A facility which has consolidated into an overall more stringent program in accordance with the Louisiana Consolidated Fugitive Emissions Program (i.e., with a source notice and agreement or a title V permit) is exempted from having to submit a description of the program to the administrative authority\*. (The Louisiana Fugitive Emission Program Consolidation Guidelines are contained in LAC 33:III.2199.Appendix B.)

6. Force Majeure

a. If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the administrative authority, in writing, as soon as practical following the date the owner or operator first knew, or through due diligence should have known that the event may cause or has caused a delay in monitoring beyond the regulatory deadline. The notification shall occur before the monitoring deadline unless the initial force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

b. The owner or operator shall provide to the administrative authority a written description of the force majeure event and a rationale for attributing the delay in monitoring beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner

or operator proposes to conduct the monitoring. The monitoring shall be conducted as soon as practicable after the force majeure occurs.

c. The decision to grant an extension to the monitoring deadline is solely within the discretion of the administrative authority. The administrative authority shall notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practical.

d. Until an extension of the monitoring deadline has been approved by the administrative authority under Subparagraph D.6.c of this Section, the owner or operator of the affected facility remains subject to the requirements of this Section.

E. Alternate Monitoring Frequency. The monitoring schedule in Paragraph D.1 or 2 of this Section may be modified as follows.

1. Alternate Standards for Valves Subject to Subparagraph D.1.b or D.2.b of This Section—Skip Period Leak Detection and Repair

a. An owner or operator may elect to comply with one of the alternate work practices specified in Subparagraph E.1.b, c, or e of this Section. However, the administrative authority shall be notified in writing before one of the alternate work practices is implemented.

b. After two consecutive quarterly leak detection periods with the percent of leaking valves (Equation 1) equal to or less than 2.0, an owner or operator may begin to skip one of the quarterly leak detection periods for valves in gas/vapor and/or light liquid service.

c. After five consecutive quarterly leak detection periods with the percent of leaking valves (Equation 1) equal to or less than 2.0, an owner or operator may begin to skip three of the quarterly leak detection periods for valves in gas/vapor and/or light liquid service.

d. If, after implementing one of the alternate work practices in Subparagraph E.1.b or c of this Section, the percent of leaking valves (Equation 1) increases to greater than 2.0, or the total percent of leaking and delay-of-repair valves (Equation 2) increases to greater than 4.0, the owner or operator shall comply with the requirements in Paragraph D.1 or 2 of this Section, but subsequently may elect to use this Subsection when the requirements are met.

e. Existing equipment that has been monitored under LAC 33:III.2121 for fugitives at the leak definition of 10,000 ppm can initially elect to use this alternate standard if the unit has data documented with the administrative authority by either January 1, 1996, or for the 12 months prior to becoming subject to this Section, that indicates the percent of leaking valves (Equation 1) is less than or equal to a 2.0 percent leak rate at 10,000 ppm for the required time periods as specified in Subparagraph E.1.b or c of this Section.

2. Alternate Standards for Valves Subject to Subparagraph D.1.b or D.2.b of this Section—Increased Monitoring Frequency. If the percent of leaking valves (Equation 1) is greater than 2.0, or the total percent of leaking and delay-of-repair valves (Equation 2) is greater than 4.0, then an increase in the frequency of monitoring may be required by the administrative authority.

3. Alternate Standards for Flanged Connectors Subject to Clause D.1.d.ii of This Section—Skip Period Leak Detection and Repair

a. An owner or operator may elect to comply with the alternate work practice specified in Subparagraph E.3.b of this Section. However, the administrative authority shall be notified in writing before the alternate work practice is implemented.

b. After four consecutive quarterly leak detection periods with the percent of leaking flanged connectors (Equation 1) equal to or less than 1.0, an owner or operator may begin to skip three of the quarterly leak detection periods for flanged connectors in gas/vapor and/or light liquid service.

c. If, after implementing the AWP in Subparagraph E.3.b of this Section, the percent of leaking flanged connectors (Equation 1) increases to greater than 1.0, or the total percent of leaking and delay-of-repair flanged connectors (Equation 2) increases to greater than 2.0, the owner or operator shall comply with the requirements as described in Clause D.1.d.ii of this Section, but subsequently may elect to use this Subsection when the requirements are met.

4. Alternate Standards for Flanged Connectors Subject to Clause D.1.d.ii of this Section—Increased Monitoring Frequency. If the percent of leaking flanged connectors (Equation 1) is greater than 1.0, or the total percent of leaking and delay-of-repair flanged connectors (Equation 2) is greater than 2.0, then an increase in the frequency of monitoring may be required by the administrative authority.

5. The percent of leaking components for which alternate control techniques are allowed by this Subsection shall be determined for each process unit using Equation 1 below. (Equation 1 shall be calculated separately for each component type.)

$$\%C_1 = [C_L] / [C_T] * 100\% \quad \text{Equation 1}$$

where:

$\%C_1$  = percent of leaking components

$C_L$  = number of components found leaking by Method 21 during the monitoring period, not including components remonitored to verify repair or components on the delay-of-repair list at the end of the previous monitoring period

$C_T$  = number of components monitored by Method 21 during the monitoring period, not including components remonitored to verify repair or components on the delay-of-repair list at the end of the previous monitoring period

6. The total percent of leaking and delay-of-repair components for which alternate control techniques are allowed by this Subsection shall be determined for each process unit using Equation 2. (Equation 2 shall be calculated separately for each component type.)

$$\%C_{T2} = [C_L + C_{TL}] / [C_T + C_{TL}] * 100\% \quad \text{Equation 2}$$

where:

$\%C_{T2}$  = total percent of leaking components including delay-of-repair list components

$C_L$  = number of components found leaking by Method 21 during the monitoring period, not including components remonitored to verify repair or

components on the delay-of-repair list at the end of the previous monitoring period

$C_{TU}$  = number of components on the delay-of-repair list at the end of the previous monitoring period

$C_T$  = number of components monitored by Method 21 during the monitoring period, not including components remonitored to verify repair or components on the delay-of-repair list at the end of the previous monitoring period

7. Alternate Standard for Batch Processes. As an alternate to complying with the requirements in Subsection D of this Section an owner or operator of a batch process in VOC service may elect to comply with one of the following alternate work practices. The batch product-process equipment shall be tested with a gas using the procedure specified in Subparagraph E.7.a of this Section or with a liquid using the procedure specified in Subparagraph E.7.b of this Section.

a. The following procedure shall be used to pressure test batch product-process equipment using a gas (e.g., air or nitrogen) to demonstrate compliance.

i. The batch product-process equipment train, or section of the train, shall be pressurized with a gas to the operating pressure of the equipment. The equipment shall be tested at a pressure lower than the lowest pressure setting of any relief device.

ii. Once the test pressure is obtained, the gas source shall be shut off.

iii. The test shall continue for not less than 15 minutes, unless it can be determined in a shorter period of time that the allowable rate of pressure drop was exceeded. The pressure in the batch product-process equipment shall be measured after the gas source is shut off and at the end of the test period. The rate of change in pressure in the batch product-process equipment shall be calculated using Equation 3.

$$\frac{P}{t} = \frac{(P_f - P_i)}{(t_f - t_i)} \quad \text{Equation 3}$$

where:

$P/t$  = change in pressure, psi/hr

$P_f$  = final pressure, psi

$P_i$  = initial pressure, psi

$t_f - t_i$  = elapsed time, hours

iv. The pressure shall be measured using a pressure measurement device (e.g., gauge, manometer, or equivalent) that has a precision of  $\pm 2.5$  millimeters ( $\pm 0.05$  psi) of mercury over the range of measured test pressures and is capable of measuring pressures up to the lowest pressure setting of any relief device.

v. A leak is detected if the rate of change in pressure (Equation 3) is greater than 6.9 kPa (1 psi) per hour or if there is visible, audible, or olfactory evidence of a leak.

b. The following procedure shall be used to pressure test batch product-process equipment using a liquid to demonstrate compliance.

i. The batch product-process equipment train, or section of the train, shall be filled with the test liquid (e.g., water, alcohol). Once the equipment is filled, the liquid source shall be shut off.

ii. The test shall be conducted for a period not less than 60 minutes, unless it can be determined in a shorter period of time that the test is a failure.

iii. Each seal in the equipment being tested shall be inspected for indications of liquid dripping or other indications of fluid loss. If there are any indications of liquids dripping or of fluid loss, a leak is detected.

c. If a leak is detected, it shall be repaired and the batch product-process equipment shall be retested before VOCs are fed to the equipment.

d. If the batch product-process equipment fails the retest or the second of two consecutive pressure tests, it shall be repaired as soon as practicable, but no later than 30 calendar days after the equipment is placed in VOC service.

#### F. Recordkeeping

1. When a component remains leaking after every reasonable attempt at repair within the 15-calendar day period provided by Subparagraph C.3.a of this Section has been exhausted, a weatherproof and readily visible tag bearing an identification number and the date the leak was located shall be affixed to the leaking component. After the leak has been repaired the tag may be removed.

2. A survey log shall be maintained by the owner or operator and shall include the following:

a. the name of the process unit where the leaking component is located;

b. the type of the leaking component;

c. the stream identification at the leak;

d. the identification number from the tag required by Paragraph F.1 of this Section;

e. the date the leak was located;

f. the date maintenance was performed;

g. the date(s) the component was rechecked after maintenance, and the results (i.e., instrument reading; visual, audible, or olfactory results; soap bubble test results; AWP video);

h. a record of the monitor calibration or AWP daily instrument check;

i. a delay-of-repair list;

j. a bypassed or isolated component list; and

k. a record of all monitoring, imaging, and inspection results.

3. The owner or operator shall retain the survey log for two years after the latest date specified in Paragraph F.2 of this Section and make the log available to the administrative authority upon request.

4. The optional use of the AWP shall require storing video and other records of the daily instrument check and inspections as required in 40 CFR 60.18.

G. Reporting Requirements. The owner or operator of the affected facility shall submit a report semiannually to the Office of Environmental Services containing the information listed in Paragraphs G.1-5 of this Section for each calendar quarter during the reporting period, except for affected facilities that elect to meet the requirements of the alternate standard for batch processes in Paragraph E.5 of this Section, for which the report shall include the information listed in Paragraphs G.6-9 of this Section. The reports are due by the last day of the month (January and July) following the monitoring period or by an alternate date approved by the administrative authority. The reports shall include the following information for each quarter of the reporting period:

1. the number of each component type for which monitoring is required by Subsection D or E of this Section versus the number monitored;

2. the percent of leaking components (Equation 1) for each component type and the number of leaks detected by visual, audible, or olfactory means for each component type;

3. the total percent of leaking and delay-of-repair components (Equation 2) for each component type;

4. a listing of all leaks that were identified, but not repaired, within the 15-day limit, including the following information:

a. the name of the process unit where the leaking component is located and the date of last unit shutdown;

b. the type of leaking component;

c. the stream identification at the leak;

d. the identification number from the tag required by Paragraph F.1 of this Section, if the component is on the delay-of-repair list;

e. the date the leak was located;

f. the monitoring or inspection results;

g. the date maintenance was performed;

h. the date the leak is expected to be repaired if the component is on the delay-of-repair list; and

i. the reason repairs failed or were postponed;

5. a signed statement attesting to the fact that all requirements of this Section have been met;

6. the batch process equipment train identification;

7. the number of pressure tests conducted;

8. the number of pressure tests that the equipment train failed; and

9. a signed statement attesting to the fact that all requirements of this Section have been met.

**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 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:1129 (November 1996), LR 22:1212 (December 1996), repromulgated LR 23:197 (February 1997), amended LR 23:1678 (December 1997), LR 24:22 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1764 (August 2002), LR 30:1660 (August 2004), repromulgated by the Office of Environmental Assessment, LR 30:2030 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007); amended by the Office of the Secretary, Legal Division, LR 39:2243 (August 2013).

### **Subchapter N. Capture Efficiency Test Procedures**

Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).

### **§2199. Appendix A and B**

Appendix A. ...

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#### **Appendix B. Louisiana Consolidated Fugitive Emissions Program (LCFEP)**

Through a memorandum of understanding signed in 1996, the Louisiana Department of Environmental Quality (LDEQ) entered into an agreement with the U.S. Environmental Protection Agency (EPA) Region 6 to administer a program titled the Louisiana Consolidated Fugitive Emissions Program (LCFEP). The agreement established guidelines for the consolidation of multiple leak detection and repair (LDAR) programs at industrial facilities into a single program. At facilities that are subject to multiple LDAR standards, LCFEP

provides the option of consulting a prioritized stringency table of programs in order to determine the overall most stringent program applicable to the facility, and then administer that program solely in lieu of implementing all fugitive programs simultaneously.

Under the current agreements between EPA and LDEQ, and between LDEQ and individual facilities, participating industry conducts the most stringent LDAR program and submits a single report, greatly reducing the regulatory burden created by overlapping state and federal LDAR programs.

The governing memorandum of understanding states:

State and EPA Region 6 agree to implement and enforce fugitive emission program requirements in accordance with the Louisiana Fugitive Emission Program Consolidation Guidelines to provide a mechanism for consolidating overlapping state and federal equipment leak programs in agreement with the affected source. EPA Region 6 and the State accept federal and state enforceability of the consolidated program. The State and EPA Region 6 further agree that compliance with a consolidated program in accordance with the Guidelines will be considered compliance with each of the fugitive emission programs being consolidated. Furthermore, it is understood that an affected source's noncompliance with the consolidated program requirements may subject the affected source to enforcement action for one or more of the requirements of fugitive emissions programs being consolidated. This agreement will be implemented only through a Source Notice and Agreement signed by and specific to each affected source. If in the future, a new federal standard is promulgated (i.e., consolidated air rule, MACT, etc.) that could potentially change the established Guidelines, the Guidelines will be revisited and modified as necessary.

The Source Notice and Agreement (SNA) is a memorandum submitted by an interested facility which contains a detailed list of programs to be consolidated. Consolidation is done on either a unit-by-unit or a facility-wide basis. The SNA is required to be signed by a facility representative meeting EPA's responsible official designation, defined under 40 CFR 63.2. Once the SNA is signed by the facility and accepted by LDEQ, the agreement is considered to be in effect for compliance purposes. SNAs are accepted or denied based on the correctness of the consolidation table, and the signature of a proper representative.

Facilities operating a consolidated fugitive program must abide by the program's consolidation guidelines. The guidelines consist of a set of rules called the workpractice terms and conditions and the stringency table (Table 9).

#### **Louisiana Fugitive Emission Program Consolidation Guidelines**

##### **Workpractice Terms and Conditions**

These terms and conditions are to be used in conjunction with the stringency table (Table 9). Of the applicable equipment leak programs being consolidated, the program highest in the table hierarchy is to be considered the overall most stringent program under the guidelines. The guidelines may be used only in accordance with a SNA or a Title V permit.

##### **Applicability and Exemptions**

The consolidated program shall apply to the combined universe of components subject to any of the programs being consolidated.

The consolidation of fugitive programs shall be conducted at a minimum of the process unit level, and may also be on a facility-wide basis.

Consolidation of RCRA programs shall first be approved by LDEQ's Waste Permits Division.

Component types which do not require periodic monitoring under the overall most stringent program, shall be monitored as required by the most stringent requirements of any other program being consolidated and will not be exempted.

The consolidated program shall include any exemptions based on size of component available in any of the programs being consolidated.

The consolidated program cannot be used to replace requirements for area monitoring under the Vinyl Chloride NESHAP.



For any compressor subject to a federal rule requiring a seal system including barrier fluid, sensor, and alarm, periodic monitoring of compressors may not be used in lieu of the seal system requirements, regardless of the overall most stringent program.

**Leak Definitions**

Leak definitions are based on the overall most stringent program as determined from Table 9.

Phase-in periods allowed under federal regulations are not eliminated as long as there is no backsliding of existing monitoring programs.

**Monitoring Frequency**

Monitoring frequency shall be based on the overall most stringent program as determined from Table 9.

Annual monitoring shall be defined as once every four quarters, regardless of the overall most stringent program. Some allowance may be made in the first year of the consolidation in order to allow for transition from existing monitoring schedules.

**Calibration**

Use of dilution device for calibration, as defined in Method 21, is acceptable.

**Identification of Components**

All leaking components must be tagged.

If the Benzene NESHAP and a more stringent program are applicable, the overall most stringent program prevails and physical tagging of components is therefore not required. Identification, either by list or location (area or group) of affected components is acceptable.

**Leak Performance**

The determination of leak performance is based on the overall most stringent program as determined from Table 9.

**Repair**

Repair period requirements are always first attempt within 5 days of detecting the leak and final repair within 15 days of detecting the leak, regardless of the overall most stringent program.

**Post Repair**

Post repair inspection consists of remonitoring once within 3 months after repair of leaks, regardless of the overall most stringent program.

**Recordkeeping and Reporting**

Recordkeeping and reporting information requirements shall be based on the overall most stringent program as determined from Table 9.

Reporting frequency shall be semiannual regardless of the overall most stringent program.

Reports shall include records for any monitoring performed within the semiannual reporting period.

**Louisiana Consolidated Fugitive Emission Program Stringency Table**

**Stringency Table (Table 9)**

This stringency table is to be used in conjunction with the workpractice terms and conditions. Consolidation is done between the groups listed. Of the applicable equipment leak programs being consolidated, the program in the highest group in the table hierarchy is to be considered the overall most stringent program under the guidelines. Referencing Subparts shall comply with the referenced program in the manner required by the provisions of the referencing Subpart. The guidelines may be used only in accordance with a SNA or a Title V permit. Programs shall be consolidated on a unit-wide or a facility-wide basis.

<b>Table 9 Stringency Table</b>
40 CFR 65 Subpart F—Consolidated Air Rule
40 CFR 63 Subpart H—SOCMI HON MACT and Referencing Subparts
40 CFR 63 Subpart EEEE—Organic Liquids Distribution (Non-Gasoline) MACT (HON Option)
40 CFR 63 Subpart UUUU—Cellulose Products MACT (HON Option)
40 CFR 63 Subpart W—Polymers and Resins II MACT
40 CFR 63 Subpart PPP—Polyether Polyols Production MACT

<b>Table 9 Stringency Table</b>
40 CFR 63 Subpart UU—General MACT for Equipment Leaks—Control Level II and Referencing Subparts
40 CFR 63 Subpart YY—Generic MACT (Acetal Resins Production, Acrylic and Modacrylic Fibers Production, Cyanide Chemicals Manufacturing, Polycarbonates Production, Ethylene Processes) (UU Option)
40 CFR 63 Subpart OOO—Amino/Phenolic Resins Manufacturing MACT
40 CFR 63 Subpart EEEE—Organic Liquids Distribution (Non-Gasoline) MACT (Subpart UU Option)
40 CFR 63 Subpart FFFF—Miscellaneous Organic Chemical Manufacturing (Subpart UU Option)
40 CFR 63 Subpart UUUU—Cellulose Products MACT (Subpart UU Option)
40 CFR 63 Subpart GGGGG—Site Remediation MACT (Subpart UU Option)
40 CFR 63 Subpart HHHHH—Miscellaneous Coating Manufacturing MACT (Subpart UU Option)
40 CFR 63 Subpart U—Polymers and Resins I, Elastomer MACT
40 CFR 63 Subpart GGG—Pharmaceuticals Production MACT
40 CFR 63 Subpart MMM—Pesticide Active Ingredient Production MACT
Louisiana MACT Determination for Non-HON Sources w/ Consent Decree Enhancements
Louisiana MACT Determination for Refineries w/ Consent Decree Enhancements
40 CFR 60 Subpart VVa—NSPS for Equipment Leaks In SOCMI Facilities
40 CFR 60 Subpart GGGa—NSPS for Equipment Leaks in Petroleum Refineries
Louisiana MACT Determination for Non-HON Sources
Louisiana MACT Determination for Refineries
LAC 33:III.2122—Louisiana Fugitive Emission Control for Nonattainment
40 CFR 63 Subpart CC—Refining MACT Modified HON option
40 CFR 61 Subpart F—National Emission Standard for Vinyl Chloride
40 CFR 61 Subpart V—National Emission Standard for Equipment Leaks and Referencing Subparts
40 CFR 61 Subpart J—National Emission Standard for Equipment Leaks of Benzene
40 CFR 63 Subpart HH—Oil and Natural Gas Production MACT
40 CFR 60 Subpart VV—NSPS for Equipment Leaks In SOCMI Facilities
40 CFR 60 Subpart GGG—NSPS for Equipment Leaks in Petroleum Refineries
40 CFR 60 Subpart KKK—NSPS for Equipment Leaks in Onshore Natural Gas Processing Plants
40 CFR 63 Subpart CC—Refinery MACT NSPS Option
40 CFR 63 Subpart TT—General MACT for Equipment Leaks—Control Level I and Referencing Subparts
40 CFR 63 Subpart EEEE—Organic Liquids Distribution (Non-Gasoline) MACT (Subpart TT Option)
40 CFR 63 Subpart FFFF—Miscellaneous Organic Chemical Production and Processes MACT (Subpart TT Option)
40 CFR 63 Subpart GGGGG—Site Remediation MACT (Subpart TT Option)
40 CFR 63 Subpart HHHHH—Miscellaneous Coating Manufacturing MACT (Subpart TT Option)
40 CFR 63 Subpart YY—Generic MACT (Acetal Resins Production, Acrylic and Modacrylic Fibers Production, Cyanide Chemicals Manufacturing, and Polycarbonates Production) (TT Option)
40 CFR 264—RCRA Subpart BB (LAC 33:V.1717.Subchapter B)
40 CFR 265—RCRA Subpart BB (LAC 33:V.4561.Subchapter R)
LAC 33:III.2121—Louisiana Fugitive Emission Control
40 CFR 63 Subpart III—Flexible Polyurethane Foam Production MACT
40 CFR 63 Subpart R—Gasoline Distribution Terminals MACT and Referencing Subpart
40 CFR 63 Subpart HHHHH—Miscellaneous Coating Manufacturing MACT (Subpart R Option)
40 CFR 63 Subpart YY—Generic MACT (Hydrogen Fluoride Manufacturing)

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, LR 11:529 (May 1985) amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 23:1508 (November 1997), amended by the Office of the Secretary, Legal Division, LR 39:2250 (August 2013).

Herman Robinson, CPM  
Executive Counsel

1308#034

## RULE

### Office of the Governor Board of Pardons

Administration and Clemency (LAC 22:V.Chapters 1 and 2)

In accordance with the provisions of the Administrative Procedure Act, (R.S. 49:950), the Board of Pardons, hereby amends its rules of LAC 22:V.101-123 and promulgate rules of LAC 22:V.201-213 of the Louisiana Board of Pardons. This rulemaking implements Act 714 of the 2012 Regular Session of the Louisiana Legislature with respect to training requirements of members of the Board of Pardons. In addition this rulemaking establishes rules with respect to types of clemency, eligibility criteria, clemency applications for capital cases, and records management.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part V. Board of Pardons

##### Chapter 1. Administration

##### §101. Mission Statement

A. The mission of the Louisiana Board of Pardons is to perform its duties as imposed by article I, sections 10 and 20, and article IV, section 5, of the Louisiana Constitution and recommend the resolution of clemency matters to the governor.

B. The mission of the Committee on Parole is to determine the time and conditions of release for eligible offenders in a manner that ensures public safety and facilitates an offender's reintegration into society, recognizing that the parole process is an essential element of the criminal justice system.

C. Using evidence based research, the parole decision makers (committee members) shall:

1. render just determination in regard to parole release and revocations, thereby maximizing the restoration of human potential while restraining the growth of the Louisiana prison population;

2. impose reasonable and prudent conditions of release consistent with the goal of structured reintegration of an offender's release into the community; and

3. impose realistic and relevant conditions of release tailored to the specific offender.

D. The board seeks to promote successful offender reentry by maintaining contact during supervision to not only intervene and address violation behavior, but to acknowledge and support compliance and accomplishments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1132 (June 1998), amended LR 30:2842 (December 2004), amended by the Office of the Governor, Board of Pardons, LR 39:2252 (August 2013).

##### §103. Filing Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998). repealed by the Office of the Governor, Board of Pardons, LR 39:2252 (August 2013).

##### §105. Discretionary Powers of the Board

A.1. The Board of Pardons, at its discretion, may deny any applicant a hearing for any of the following reasons:

- a. serious nature of the offense;
- b. insufficient time served on sentence;
- c. insufficient time after release;
- d. proximity of parole/good time date;
- e. institutional disciplinary reports;
- f. probation/parole—unsatisfactory/violated;
- g. past criminal record; or
- h. any other factor determined by the board.

2. However, nothing in Chapter 1 shall prevent the board from hearing any case.

B. In any matters not specifically covered by LAC 22:V.Chapter 1, the board shall have discretionary powers to act.

C. No person shall have a right of appeal from a decision of the board of pardons or the governor regarding clemency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998), LR 28:1026 (May 2002), amended by the Office of the Governor, Board of Pardons, LR 39:2252 (August 2013).

##### §107. Contact with the Board of Pardons

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1133 (June 1998); repealed by the Office of the Governor, Board of Pardons, LR 39:2252 (August 2013).

##### §109. Hearing Granted

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1133 (June 1998), amended LR 26:88 (January 2000), repealed by the Office of the Governor, Board of Pardons, LR 39:2252 (August 2013).

##### §111. Notice of Public Hearing Dates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:1133 (June 1998), repealed by

the Office of the Governor, Board of Pardons, LR 39:2252 (August 2013).

### **§113. Denials by Board after Public Hearing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998), repealed by the Office of the Governor, Board of Pardons, LR 39:2253 (August 2013).

### **§115. Denial/No Action Taken by Governor after Favorable Recommendation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998), repealed by the Office of the Governor, Board of Pardons, LR 39:2253 (August 2013).

### **§117. Governor Grants**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134, repealed by the Office of the Governor, Board of Pardons, LR 39:2253 (August 2013).

### **§119. Training**

A. Within 90 days of being appointed to the board, each member shall complete a comprehensive training course developed by the Department of Public Safety and Corrections. Each member shall complete a minimum of eight hours of training annually.

B. Each board member shall be issued a *Rules and Procedures Manual* and shall sign a statement to acknowledge receipt of the manual. Such statement shall include the board member's agreement to completely and thoroughly familiarize himself or herself with the information contained therein and to conduct himself at all times in a manner which will strictly adhere to the letter of the law, as well as the spirit and intent. The manual shall contain, but not be limited to, a copy of the following:

1. Louisiana Board of Parole Rules and Procedures;
2. Code of Governmental Ethics;
3. R.S. 42:1 et seq. (public policy for Open Meetings

Law);

4. all Department of Public Safety and Corrections regulations and/or statutes with particular reference to the operations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2253 (August 2013).

### **§121. Contact with the Board of Pardons**

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual in writing that the contact is illegal. The letter must be accompanied by a copy of R.S.15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §121.B shall be fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of pardon, clemency, or commutation of sentence are subject to public inspection. Exceptions to §121 are:

1. letters from any victim of a crime committed by the applicant being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence.

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2253 (August 2013).

### **§123. Board Spokesperson**

A. Only the chairman of the board or, in the absence of the chairman, the vice-chairman shall be authorized to speak on behalf of the entire Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2253 (August 2013).

### **§125. Records Management and Confidentiality of Information**

#### **A. Records Management and Retention**

1. The board shall implement a records management program to ensure all Board of Pardons vital records are stored managed, and disposed of in accordance with state law. The board shall use the Records Retention Schedule created and maintained by the Department of Public Safety and Corrections, Corrections Services.

#### **B. Confidentiality**

1. The presentence investigation report, the pre-parole report, the clemency investigation, the information and data gathered by staff of the board, the prison record, and any other information obtained by the board or the Department of Public Safety and Corrections, in the discharge of their official duties shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except as provided by these rules and La. R.S. 15:574.12, and regulations of the Department of Public Safety and Corrections.

#### **C. Release of Information—Sex Offenders**

1. board is authorized to release to the public the following information regarding sex offenders:

- a. name and address;
- b. crime of conviction and date of conviction;
- c. date of release on parole or diminution of sentence;

d. most recent photograph available; and  
e. any other information that may be necessary and relevant for public protection.

2. Verbal requests for such information are acceptable.

3. The chairman of the board or his or her designee may require a written request before releasing any information.

4. The board cannot release any information regarding victims or witnesses of sex crimes to the sex offender or the general public.

#### D. Release of Information—Minor Victim(s)

1. In addition to any other information authorized to be released, the board may, pursuant to R.S. 15:546, release information concerning any inmate under the jurisdiction of the board who is convicted of any sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator.

#### E. Release of Information—Criminal Convictions

1. The board may disseminate information regarding an offender's criminal convictions without restriction.

F. Other information regarding an offender's criminal history records, including nonconviction history may only be released subject to the restrictions outlined in R.S. 15:548. Unless the request is made by a representative of a criminal justice agency or a juvenile justice agency, such information shall, under normal circumstances, be released only pursuant to a written request.

G. The board shall be immune from liability for the release of information concerning any sex offender, sexually violent predator, or child predator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2253 (August 2013).

## Chapter 2. Clemency

### §201. Types of Clemency

A. Executive Pardon. An executive pardon is a full pardon which unconditionally releases a person from punishment and forgives guilt for any Louisiana convictions. It restores an applicant to all of the rights of citizenship possessed by the person before his or her conviction, including the right to own, possess, or use firearms.

B. Pardon without Firearm Authority. A pardon without firearm authority releases a person from punishment and forgives guilt. It entitles an applicant to all of the rights of citizenship enjoyed by the person before his or her conviction, except the specific authority to own, possess, or use firearms.

C. Pardon for Misdemeanor. A pardon for a misdemeanor conviction releases a person from punishment and forgives guilt.

D. Commutation of Sentence. A commutation of sentence may adjust an applicant's penalty to one less severe but does not restore any civil rights, and it does not restore the authority to own, possess, or use firearms.

E. Specific Authority to Own, Possess, or Use Firearms. The specific authority to own, possess, or use firearms restores an applicant the right to own, possess, or use firearms, which were lost as a result of a felony conviction. Due to federal firearms laws, the pardon board will not consider requests for firearm authority from individuals convicted in federal or out-of-state courts.

F. First Offender Pardons. For the purposes of this section "first offender" means a person convicted within Louisiana of a felony but never previously convicted of a felony within Louisiana or convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state would have been a felony, regardless of any previous convictions for any misdemeanors. Once such a pardon is granted, the individual who received such pardon shall not be entitled to receive another such pardon. Types of first offender pardons are listed below.

1. Offenders Sentenced after November 5, 1968 and before December 31, 1974. An offender sentenced after November 5, 1968 and before December 31, 1974, who has never been previously convicted of a felony, and who has completed serving their sentence, is eligible to apply for a governor's first offender pardon. By Executive Order dated March 16, 2001, all of these types of applications for clemency must be submitted to the pardon board.

2. Offenders Sentenced on or after January 1, 1975 and before December 27, 1999 (automatic first offender pardon). A first offender sentenced on or after January 1, 1975 and who has never been previously convicted of a felony shall be automatically pardoned upon completion of his sentence without a recommendation of the pardon board and without action by the governor. The Division of Probation and Parole of the Department of Public Safety and Corrections has responsibility for the issuance of this type of first offender pardon certificate. The certificate proclaims that the offender has been restored all basic rights of citizenship, which includes the right to vote, but does not specifically restore the right to own, possess, or use firearms.

3. Offenders Sentenced after December 27, 1999 (automatic first offender pardon). A first offender sentenced after December 26, 1999 for a non-violent crime, or convicted of aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated criminal damage to property, purse snatching, extortion, or illegal use of weapons or dangerous instrumentalities never previously convicted of a felony shall be pardoned automatically upon completion of his sentence without a recommendation of the board of pardons and without action by the governor. The Division of Probation and Parole of the Department of Public Safety and Corrections has responsibility for the issuance of this type of first offender pardon certificate. The certificate proclaims that the offender has been restored all basic rights of citizenship, which includes the right to vote, but does not specifically restore the right to own, possess, or use firearms.

4. No person convicted of a sex offense as defined in R.S. 15:541 or determined to be a sexually violent predator or a child predator under the provisions of R.S. 15:542.1 et seq. shall be exempt from the registration requirements of R.S. 15:542.1 et seq., as a result of a pardon under the provision of this Subsection.

5. Any person sentenced on or after January 1, 1975 receiving a first offender pardon under these provisions may be charged and punished as a second or multiple offender as provided in R.S. 15:529.1

6. No first offender pardon may be issued to a first offender unless that person has paid all of the court costs

which were imposed in connection with the conviction of the crime for which the pardon is to be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572, 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2254 (August 2013).

### **§203. Eligibility for Clemency Consideration**

#### **A. Eligibility**

1. Pardons. A person may not apply for a pardon if the applicant has any outstanding detainers, or any pecuniary penalties or liabilities which total more than \$1,000 and result from any criminal conviction or traffic infraction. In addition, no person is eligible to apply for pardon unless the applicant has paid all court costs which were imposed in connection with conviction of the crime for which pardon is requested.

2. Commutation of Sentence. A person may not be considered for a commutation of sentence unless he or she has been granted a hearing by the pardon board and has had his or her case placed upon a pardon board agenda.

3. Remission of Fines and Forfeitures. A person may not apply for a remission of fines and forfeitures unless he or she has completed all sentences imposed and all conditions of supervision have expired or been completed, including, but not limited to, parole and/or probation.

4. Specific Authority to Own, Possess, or Use Firearms. A person may not apply for the specific authority to own, possess, or use firearms unless he or she has completed all sentences imposed for the applicant's most recent felony conviction and all conditions of supervision imposed for the applicant's most recent felony conviction have expired or been completed, including, but not limited to, parole and/or probation, for a period of five years. The applicant may not have any outstanding detainers, or any pecuniary penalties or liabilities which total more than \$1,000 and result from any criminal conviction or traffic infraction. In addition, the applicant may not have had any outstanding victim restitution, including, but not limited to, restitution pursuant to a court or civil judgment or by order of the committee on parole.

B. Applications. All applications must be submitted in accordance with §205, "Application Filing Procedures".

C. Incarcerated Applicants or Applicants Under Supervision of the Louisiana Department of Public Safety and Corrections.

1. An executive pardon shall not be considered for an offender while in prison, except when exceptional circumstances exist.

2. An incarcerated offender who is not serving a life sentence may request a commutation of sentence:

- a. after having served a minimum of 10 years; and
- b. must have been disciplinary report free for a period of at least 24 months prior to the date of the application; and
- c. must not be classified to a maximum custody status at the time of the application or at the time of the hearing (if a hearing is granted); and
- d. must possess a marketable job skill, either through previous employment history or through successful completion of vocational training while incarcerated; or
- e. upon the written recommendation from trial official(s) that includes:

i. a statement that the penalty now appears to be excessive;

ii. a recommendation of a definite term now considered by the official as just and proper;

iii. a statement of the reasons for the recommendation based upon facts directly related to the facts of the case and in existence, but not available to, the court or jury at the time of trial, or a statutory change in penalty for the crime which would appear to make the original penalty excessive.

D. Life Sentences: An offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty. The offender must also meet the criteria stated in Subparagraphs C.2.a-d of this Section.

C. Capital Cases. Any offender sentenced to death may submit an application within one year from the date of the direct appeal denial. See also §213 "Capital Cases".

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013).

### **§205. Application Filing Procedure**

#### **A. All Applicants**

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
  - b. prison number [Department of Corrections (DOC) number];
  - c. date of birth;
  - d. race/sex;
  - e. education (highest grade completed);
  - f. age at time of offense;
  - g. present age;
  - h. offender class;
  - i. place of incarceration (incarcerated applicant only);
  - j. parish of conviction/judicial district/court docket number;
  - k. offense(s) charged, convicted of or plead to;
  - l. parish where offense(s) committed;
  - m. date of sentence;
  - n. length of sentence;
  - o. time served;
  - p. prior parole and/or probation;
  - q. when and how parole or probation completed;
  - r. prior clemency hearing/recommendation/approval;
  - s. reason for requesting clemency;
  - t. relief requested and narrative detailing the events surrounding the offense;
  - u. institutional disciplinary reports (incarcerated applicants only); total disciplinary reports, number within the last 24 months; nature and date of last violation; and custody status.
2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.
3. An application must be completed. If any required information does not apply, the response should be "na."

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant.

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §205.A.1.u and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed the probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572(B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below:

1. Applicants Sentenced to Life Imprisonment . Any applicant with a life sentence may reapply seven years after the initial denial; five years after the subsequent denial; and every five years thereafter. Applicant must also meet the criteria stated in §203 C.2.(a) through (d).

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any form of executive clemency by the governor may not reapply for further executive clemency for at least four (4) years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the Governor that the board's favorable recommendation was denied or no action was taken. The applicant may submit a new application one year from the date of the letter or denial or notice of no action.

E. Notice of Action Taken on Application. After review of application for clemency by the board, applicants shall be notified, in writing, of action taken by the board. Action can include granting a hearing before the board or denial of a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013).

#### **§209. Hearing Granted**

A. After notice to an applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I (applicant's name), (DOC number), have applied for clemency for my conviction of (crime). If you have any comments, contact the Board of Pardons (225) 342-5421."

B. Along with the proof of advertisement published in the local journal, the applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013).

#### **§211. Hearings before the Pardon Board**

A. The board shall meet on regularly scheduled dates as determined by it, and at such other times as the chairman may determine are necessary for the purpose of reviewing and taking action on clemency applications before it and to transact such other business as it deems necessary. The meeting calendar shall be made available to the public. The hearing dates shall also be posted on the website maintained by the board.

B. After receipt of all documents required by §203 and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

C. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the board of pardons, in writing, giving name and return address.

D. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the board

of pardons by means of telephone communication from the office of the local district attorney.

E. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. Any person making an oral presentation to the board will be allowed no more than five minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes. The chairman may extend the time limitations for oral presentations at his or her discretion. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

F. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

G. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in seven years if it is his/her initial hearing, five years if subsequent hearing date, and five years thereafter.

H. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013).

### **§213. Capital Cases**

A. The board will consider recommending to the governor a stay of execution of death sentence upon receipt of a written application in behalf of a condemned felon. Any such application shall contain the following information:

1. the name of the applicant, together with any other pertinent identifying information;
2. identification of the applicant's agents, if any, who are presenting the application;
3. certified copies of the indictment, judgment, verdict of the jury, and sentence in the case, including official documentation verifying the scheduled execution date;
4. a brief statement of the offense for which the prisoner has been sentenced to death;
5. a brief statement of the appellate history of the case, including its current status;
6. a brief statement of the legal issues which have been raised during the judicial progress of the case;
7. the requested length of duration of the stay, which shall be in increments of 30 days, unless a different duration is requested on the basis of the grounds for the application set forth pursuant to §213.A.8.
8. all grounds upon the basis of which the stay is requested; provided that such grounds shall not call upon the board to decide technical questions of law which are properly presented via the judicial process; and,
9. a brief statement of the effect of the offender's crime upon the family of the victim.

B. The written application must be delivered to the board office, Post Office Box 94304, Baton Rouge, LA 70804 not later than the twenty-first calendar day before the execution is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered not later than the next business day. The chairman may extend this timeframe for acceptance of the written application at his or her discretion, based on good and adequate cause. Otherwise, the applicant's recourse will be directly to the governor.

C. All supplemental information, including but not limited to amendments, addenda, supplements, or exhibits, must be submitted in writing and delivered to the board office, Post Office Box 94304, Baton Rouge, LA 70804 not later than the fifteenth calendar day before the execution is scheduled. If the fifteenth calendar day before the execution is scheduled falls on a weekend or state observed holiday, all additional information including but not limited to amendments, addenda, supplements, or exhibits shall be delivered not later than the next business day. The chairman may extend this timeframe for acceptance of supplemental information at his or her discretion, based on good and adequate cause.

D. Any information filed with the application, including but not limited to amendments, addenda, supplements, or exhibits, which require reproduction facilities, equipment, or technology not operated by the board, must be provided by the applicant in an amount sufficient to allow review by all members of the board. An amount sufficient shall mean not less than ten and not more than twenty copies of the duplicate item.

E. A convicted person seeking a board recommendation to the governor of a reprieve or stay of execution may request an interview with a member of the board. Such request shall be included in the written application or any supplement filed therewith.

F. Upon receipt of a request for interview, the chairman shall designate at least one member of the board to conduct the requested interview. Such interview shall occur at the confining unit of the Department of Public Safety and Corrections. Attendance at such interviews shall be limited to the convicted person and their counsel of record, the designated board member(s), and institutional staff. The board may consider statements by the offender made at such interviews when considering the offender's application for reprieve or stay of execution.

G. The board shall consider and decide applications for stay or reprieve from execution. Upon review, a majority of the board, in written and signed form may:

1. recommend to the governor a reprieve from execution (which may include a recommendation to commute the sentence to life imprisonment);
2. not recommend a reprieve from execution; or
3. set the matter for a hearing as soon as practicable and at a location convenient to the board and the parties to appear before it.

H. When the board sets a hearing pursuant to Subsection (G)(3) of this Section, it shall notify the trial officials of the parish of conviction and the attorney general of the State of Louisiana and allow any such official(s), or the designated representatives thereof, the opportunity to attend the hearing and/or to present any relevant information. Prior to the

hearing date, the chairman may convene a conference meeting with attorneys for the state and the convicted person to discuss and resolve any hearing preparation issues (i.e., the issues to be heard and considered by the board, list witnesses and exhibits from both sides and any other pertinent details). No testimony from witnesses will be taken. The purpose of the conference is to improve the quality of the hearing with thorough preparation.

I. At the time of notifying the trial officials, the board shall also notify any representative of the family of the victim (who has previously requested to be notified) of the receipt of the application, the setting of a hearing, and of said representative or family member's rights to provide any written comments or to attend the hearing.

J. All hearings conducted by the board under this section shall be in open session pursuant to requirements of the Louisiana Open Meetings Act. For the purpose of discussing matters which are deemed confidential by statute, or where otherwise authorized by the provisions of the Louisiana Open Meetings Act, the proceedings may be conducted in executive session closed to members of the general public, for that limited purpose. Only those persons whose privacy interests and right to confidentiality may be abridged by discussion involving disclosure of confidential information may be allowed to meet with members of the board in their executive session to discuss that information. No decision, vote, or final action by the board shall be made during a closed meeting; the board's decision, vote, or final action shall be made and announced in an open meeting. The hearing may be recessed prior to its completion and reconvened pursuant to the directions of the board.

K. Advocates for and against the death penalty, generally, and members of the general public may present written information for the board's consideration at its central office headquarters at any reasonable time.

L. After the conclusion of the hearing, the board shall render its decision, reached by majority vote, within a reasonable time, which decision shall be either to:

1. recommend to the governor a reprieve from execution (which may include a recommendation for a commutation of sentence to life imprisonment);
2. not recommend a reprieve from execution; or
3. recess the proceedings without rendering a decision on the merits, if a reprieve has been granted by the governor or if a court of competent jurisdiction has granted a stay of execution.

M. Each of the provisions of this policy are subject to waiver by the board when it finds that there exists good and adequate cause to suspend said provisions and adopt a different procedure which it finds to be better suited to the exigencies of the individual case before it.

N. Successive or repetitious reprieve applications submitted in behalf of the same condemned felon may be summarily denied by the board without meeting.

O. Time Limits. At the clemency hearing for capital punishment cases, the offender's clemency counsel and the attorneys for the State may make an oral presentation, each not to exceed 15 minutes collectively. Representatives of the victim's family may make oral statements not to exceed an additional five minutes collectively. The chairman may extend these time frames at his or her discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2257 (August 2013).

Sheryl M. Ranatza  
Chairman

1308#004

## RULE

### Office of the Governor Board of Pardons Committee on Parole

Committee on Parole—Membership, Duties, and Functions  
(LAC 22:XI.101-122, 501-514, 701-711,  
901, 903, 907, 909, 911, 1501, and 1503)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons/Committee on Parole, hereby amends its rules and promulgate rules of LAC 22:XI.101-122, 501-514, 701-711, 901-909, and 1501-1503. This rulemaking implements Act 714 of the 2012 Regular Session of the Louisiana Legislature. Act 714 merges the functions and duties of the Board of Parole into the Board of Pardons; creates a committee on parole, provides for its membership, duties, and functions of the committee on parole.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part XI. Committee on Parole

#### Chapter 1. Administration

##### §101. Authority

A. The Louisiana Committee on Parole, hereinafter referred to as "the committee," has the authority:

1. to determine the time and conditions of release on parole of any person who has been convicted of a felony and sentenced to the Louisiana Department of Public Safety and Corrections and who is statutorily eligible for parole consideration; and
2. to determine and impose sanctions for violation of the conditions of parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2258 (August 2013).

##### §102. Powers and Duties of the Committee

A. The Louisiana Committee on Parole shall:

1. make parole release and revocation decisions under R.S. 15:574.2;
2. adopt rules not inconsistent with law as the committee deems necessary and proper with respect to the eligibility of offenders for parole and the conditions imposed upon offenders who are released on parole;
3. keep records of its official actions and make them accessible according to law;
4. collect, develop, and maintain statistical information concerning its services and decisions;
5. when requested to do so, submit written notification of the offender's pending release, at least seven days prior to



the offender's date of release, to the chief of police, sheriff, or district attorney of the parish where the offender will reside and where the conviction(s) occurred;

6. submit an annual report on the committee's performance to the Secretary of the Department of Public Safety and Corrections on or before February 1 each year for the previous calendar year, to include statistical and other data with respect to the determination and work of the committee, relevant data of committee decisions, a summary of past practices and outcomes, plans for the upcoming year, research studies which the committee may make of sentencing, parole, or related functions, and may include recommendations for changes considered necessary to improve its effectiveness.

B. The Louisiana Committee on Parole may:

1. apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry;

2. take testimony under oath, either at a hearing or by deposition;

3. sanction an offender's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language at a hearing or in written communications with the offender's parole application, notice for which shall be provided to the offender at, or prior to, the commencement of proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2258 (August 2013).

### **§103. Composition of the Committee**

A.1. The committee shall be composed of the five members of the Board of Pardons, two at-large members appointed by the governor, who shall only serve as members of the Committee on Parole and shall not serve as members of the Board of Pardons. In addition to the seven members appointed by the governor, an ex officio member shall serve on the committee. The chairman of the Board of Pardons shall serve as the chairman of the Committee on Parole.

a. The warden, or in his absence the deputy warden, of the correctional facility in which the offender is incarcerated shall be an ex officio member of the committee. When the offender is housed in a local correctional facility and the warden or deputy warden of that facility is not able to attend the offender's parole hearing, the warden, or in his absence the deputy warden, of the facility where the offender's parole hearing is held may serve as an ex officio member. The ex officio member shall not be a voting member nor shall he be counted or permitted to be counted for purposes of the number of members necessary to take committee action or the number of members necessary to establish quorum.

2. All members shall serve at the pleasure of the governor and each appointment shall be confirmed by the Senate.

3. Each member shall, except the ex officio member, devote full time to the duties of the office.

B. The chairman of the board shall be the chief administrative officer for the committee and shall be responsible for assuring that all meetings, hearings and

administrative matters for the committee are properly conducted in accordance with law and with these rules or executive order.

C. The vice-chairman of the Board of Pardons shall act in place of the chairman in his or her absence and shall be responsible for any other administrative duties as directed by the chairman or as provided by law or executive order. In the event that the vice-chairman is incapacitated or otherwise unable to perform his or her duties for any reason, the chairman shall perform such duties until the vice-chairman is able to resume performance of his or her duties.

D. All members appointed after August 15, 2010 shall possess not less than five years actual experience in the field of corrections, law enforcement, sociology, law, education, social work, medicine, or a combination thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998), amended by Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2259 (August 2013).

### **§105. Headquarters**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998), repealed by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2259 (August 2013).

### **§107. Powers and Duties of the Board**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:114 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2293 (December 1998), repealed by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2259 (August 2013).

### **§108. Mission Statement**

A. The mission of the Louisiana Committee on Parole is to determine the time and conditions of release for eligible offenders in a manner that ensures public safety and facilitates an offender's reintegration into society, recognizing that the parole process is an essential element of the criminal justice system.

B. Using evidence based research, the parole decision makers (committee members) shall:

1. render just determination in regard to parole release and revocations, thereby maximizing the restoration of human potential while restraining the growth of the Louisiana prison population;

2. impose reasonable and prudent conditions of release consistent with the goal of structured reintegration of an offender's release into the community; and

3. impose realistic and relevant conditions of release tailored to the specific offender.

C. The committee seeks to promote successful offender reentry by maintaining contact during supervision to not only intervene and address violation behavior, but to acknowledge and support compliance and accomplishments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2259 (August 2013).

#### **§109. Restrictions on the Representation of Offenders**

A. The following persons shall not represent any offender, directly or indirectly, before the committee:

A.1. - B. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:114 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2293 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2260 (August 2013).

#### **§111. Communications between Committee Members**

A. There shall be no informal, off-the-record communications regarding the merits or the substance of an offender's case between committee members for the purpose of influencing a decision of the committee outside of an official public hearing. The warden or deputy warden, as ex officio member, may provide information to other members of the committee regarding an offender's progress during incarceration. Such communication may be submitted in writing in advance of the offender's scheduled hearing or may be provided verbally during the course of the public hearing; however, as an ex officio member, the warden or deputy Warden shall not be a voting member of the committee. Any attempt by a committee member to discuss cases in an effort to persuade another committee member or members outside of an official public hearing shall be documented as set forth in §113.D.1-3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2260 (August 2013).

#### **§113. Communications with Committee Members**

A.1. No member of the committee shall transmit any correspondence to, or otherwise confer with, a judge before whom a convicted offender is awaiting sentencing to request or recommend any action relating to the sentence to be imposed upon the offender.

2. The committee shall notify the governor of its finding of a violation of this Section. However, no decision of the committee shall be nullified or otherwise affected by the participation of a member who has violated this Section, except a decision that involves the offender on whose behalf the request or recommendation was made.

B. Notwithstanding the provisions of R.S. 15:574.12(A), or any other provision of law to the contrary, no person shall contact or communicate with the committee or any of its members urging parole, or otherwise regarding any offender, except in an open hearing/meeting or by written letter addressed to the committee.

1. Any written communication with the committee regarding an offender as provided in this Section shall be deemed a public record and subject to public inspection as provided by R.S. 44:1 et seq.

2. Letters written by or on behalf of any victim of a crime committed by the offender, or any letter written in opposition to the offender being placed on parole shall not be deemed a public record. However, this exception shall not apply to any written communication by an elected or appointed official.

C. Any member of the committee improperly contacted by an individual shall immediately cease the inappropriate communication with the individual, notify the individual in writing, return receipt requested, accompanied by a copy of this rule, that such contact was illegal and inappropriate, and report the contact to the other committee members.

1. Any person who persists in violating the provisions of this Section, after being informed of the inappropriate contact as provided in this Section, shall be reported to the appropriate district attorney for prosecution.

2. If convicted, the violator shall be fined not more than \$500 or imprisoned for not more than six months, or both.

D. Any oral communication received by a committee member with the intent to affect the outcome of any offender's case shall be documented in writing.

1. The written documentation shall include the name of the individual making the contact, date and time of the contact, type of communication, name of offender, nature of the request and committee member's action.

2. A copy of such written documentation shall be kept in a central registry at the committee office and shall be subject to public inspection.

E. Copies of any written communication received by a committee member shall be made available to all committee members and shall be subject to public inspection.

F. Any public records' request directed to the committee or its staff should be made in writing. The chairman or his or her designee and/or the committee's attorney shall review and approve or disapprove the request in accordance with R.S. 15:574.12 and R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2260 (August 2013).

#### **§115. Ethics and Conflicts of Interest**

A. Members of the committee are subject to the constraints imposed by the Louisiana *Code of Governmental Ethics*, which ensures the public confidence in the integrity of government.

B. Any member of the committee who has a conflict of interest must recuse himself or herself from a matter pending before the committee. A conflict of interest may include, but not be limited to the following.

1. The committee member is a witness.

2. The committee member has been employed as an attorney for the offender.

3. The attorney for the offender is the spouse of a committee member or is related to a committee member.

4. The offender is a relative of a committee member.

5. The committee member is biased, prejudiced, or interested in the case or its outcome, or biased or prejudiced toward or against the offender or the offender's attorney to the extent that he/she would be unable to fairly and impartially participate in the hearing.

C. If a committee member fails to recuse himself or herself, any interested person may request in writing to the chairman of the committee that a member be recused. This request should include detailed reasons why a member should be recused.

D. If the member fails to recuse himself or herself, the matter shall be referred to the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2260 (August 2013).

#### **§117. Training**

A. Within 90 days of being appointed to the committee, each member shall complete a comprehensive training course developed by the Department of Public Safety and Corrections. Each member shall complete a minimum of eight hours of training annually.

B. Each committee member shall be issued a rules and procedures manual and shall sign a statement to acknowledge receipt of the manual. Such statement shall include the committee member's agreement to completely and thoroughly familiarize himself or herself with the information contained therein and to conduct himself at all times in a manner which will strictly adhere to the letter of the law, as well as the spirit and intent. The manual shall contain, but not be limited to, a copy of the following:

1. Louisiana Board of Pardon/Committee on Parole rules and procedures;

2. *Code of Governmental Ethics*;

3. R.S. 42:1 et seq. (public policy for open meetings law);

4. all Department of Public Safety and Corrections regulations and/or statutes with particular reference to the operations of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2261 (August 2013).

#### **§119. Legislative Briefing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), repealed by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2261 (August 2013).

#### **§121. Committee Spokesperson**

A. Only the chairman of the committee or, in the absence of the chairman, the vice-chairman shall be authorized to speak on behalf of the entire committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2261 (August 2013).

#### **§122. Records Management and Confidentiality of Information**

##### **A. Parolee Record**

1. The committee shall cause a complete record to be kept of every inmate released on parole. Such records shall be organized in accordance with the most modern methods of filing and indexing so that there always will be immediate availability of complete information about such inmate.

##### **B. Records Management and Retention**

1. The committee shall implement a records management program to ensure all Committee on Parole vital records are stored managed, and disposed of in accordance with state law. The committee shall use the records retention schedule created and maintained by the Department of Public Safety and Corrections, Corrections Services.

##### **C. Release of Information—Sex Offenders**

1. The committee is authorized to release to the public the following information regarding sex offenders:

a. name and address;

b. crime of conviction and date of conviction;

c. date of release on parole or diminution of sentence;

d. most recent photograph available; and

e. any other information that may be necessary and relevant for public protection.

2. Verbal requests for such information are acceptable.

3. The chairman of the committee or his or her designee may require a written request before releasing any information.

4. The committee cannot release any information regarding victims or witnesses of sex crimes to the sex offender or the general public.

##### **D. Release of Information—Minor Victim(s)**

1. In addition to any other information authorized to be released, the committee may, pursuant to R.S. 15:546, release information concerning any offender under the jurisdiction of the committee who is convicted of any sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator.

##### **E. Release of Information—Criminal Convictions**

1. The committee may disseminate information regarding an offender's criminal convictions without restriction.

F. Other information regarding an offender's criminal history records, including nonconviction history may only be released subject to the restrictions outlined in R.S. 15:548.

Unless the request is made by a representative of a criminal justice agency or a juvenile justice agency, such information shall, under normal circumstances, be released only pursuant to a written request.

G. The committee shall be immune from liability for the release of information concerning any sex offender, sexually violent predator, or child predator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2261 (August 2013).

## **Chapter 5. Meetings and Hearings of the Committee on Parole**

### **§501. Types of Meetings**

A. All meetings and hearings of the committee shall be open to the public. For the purpose of convenience and in order to differentiate between the different types of forums for conducting business, the following designation or title has been given, depending upon the nature of the matters or actions to be considered:

1. a *business meeting* is a meeting of the full committee to discuss all general business matters as set forth in §507;

2. a *public hearing* is a meeting of randomly selected, three-member panels, as set forth in §511.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013).

### **§503. Parole Panels**

A. The committee shall meet in panels comprised of at least three members of the committee, except as otherwise provided in these rules.

B. The chairman of the committee shall randomly assign all three-member panels. Each panel shall appoint the chairperson of that three-member panel.

C. The random selection of panels shall be done in such a manner as to result in the smallest probability of having a panel constituted by the same three members for two consecutive months.

D. In the event that a committee member requests a change in the composition of a panel to which that member has been assigned, the reason for such request must be made in writing to the vice-chairman of the committee for approval. This does not include emergencies, illness, etc. on the day of the hearings/meetings.

1. When an emergency request is made on the date of the hearing/meeting, the explanation for such emergency must be submitted in writing upon the panel member's return to work as promptly as practical.

2. There will be no substitutions of panel members except in cases of either illness or emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq. and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Department of Public Safety and

Corrections, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013).

### **§505. General Procedures**

A. The committee will conduct its business meetings and public hearings in accordance with the provisions of R.S. 42:1 et seq. (public policy for open meetings law) and *Robert's Rules of Order*.

1. At business meetings, detailed minutes indicating time of commencement, persons present (including visitors and witnesses), adoption of previous minutes, motions and seconds, and time of adjournment shall be recorded and maintained by the committee staff member so designated by the chairman.

2. The committee's minutes of public hearings shall include the following information as applicable:

a. name and Department of Corrections (DOC) number of the offender;

b. name of counsel representing the offender (an offender docketed for a public hearing may be represented by counsel);

c. the vote of each member; and

d. the decision of the committee.

B.1. The vote of each panel member shall be recorded by name and date on the vote sheet.

2. Only those members present shall vote; voting by proxy is prohibited.

3. No vote shall be taken while the panel is in executive session.

4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505. L, §513.A.1-3, and §711.

5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the committee office.

C. The chairperson of the panel shall appoint a member of each three-member panel, other than the chair, to review case records subsequent to voting to assure the accuracy of all documents.

D. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel (see §514, Voting/Votes Required).

E. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F. The committee may extend invitations to individuals to observe committee proceedings.

G. The committee may direct questions to and/or request statements from anyone appearing before the committee.

H. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the committee.

I. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

J. The vice chairman shall be responsible for schedules of administrative meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

K. The vice-chairman of the committee or his or her designee shall develop a duty calendar and shall designate one committee member as the daily duty officer.

1. The duty officer shall be available and present to act on behalf of the committee concerning both routine office and administrative matters as authorized by these rules.

2. If the duty officer must substitute for another member at a hearing or is absent for any other reason, he or she need not be replaced by another duty officer.

L. Upon notification by the Secretary of the Department of Public Safety and Corrections that an offender has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013).

#### **§507. Business Meetings**

A. The full committee shall meet as necessary when called by the chairman of the board. Additional meetings may be called a majority vote of the committee.

B. The agenda for business meetings of the committee may include, but shall not be limited to, the following topics:

1. committee rules;
2. personnel matters;
3. litigation; and
4. any other matters the committee deems necessary.

C. Business meetings should be tape recorded and copies of the taped and/or written minutes shall be available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013).

#### **§509. Administrative Meetings**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), repealed by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013).

#### **§510. Victims**

A. Before a parole panel considers parole release for an offender who is serving a sentence of an offense in which a person was a victim, the parole panel shall allow one person to appear in person before the panel to present a statement of

the person's views about the offense, the offender, and the effect of the offense on the victim. Nothing in this Rule is intended to limit the panel's discretion to allow individual victims to make personal appearance or to make contact by phone through the local district attorney's victim advocacy representative.

B. The victim, spouse, or next of kin of a deceased victim shall be advised in writing no less than 30 days prior to the hearing date when the inmate is scheduled for a parole hearing.

C. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

1. the hearing is open to the public;
2. he or she may remain in the hearing room during the entire hearing (except during executive session); and
3. he or she may speak to the panel prior to its making a decision in the case.

D. The Committee on Parole has delegated the responsibility for this notice to the Department of Public Safety and Corrections.

E. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the committee in writing that such notification is not desired.

F. Notification is not required when the victim cannot be located despite the exercise of due diligence.

G. For purposes of §509.A:

*Victim*—an individual against whom a crime has been perpetrated.

H. Pursuant to R.S. 15:574.2(C)(12) the panel may exclude anyone from the hearing to protect the privacy of the victim or victims.

I. The victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

J. The victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013).

#### **§511. Public Hearings/Videoconferencing**

A. The vice-chairman shall schedule public hearings. A copy of the schedule shall be available for public inspection at the committee office.

B.1. The panel may consider the following actions with the offender present:

- a. parole;
  - i. in the case of IMPACT parole, the offender need not be present unless requested by the panel;
- b. revocation; and
- c. recommendations for work release.

2. The panel may consider the following actions without the offender present:

- a. to consider rehearing requests; and
- b. to consider those matters referred by a member from single-member action (see §513, Single-Member Action); the member who makes such a referral may not serve on the panel.

C. Generally, public hearings shall be conducted via videoconferencing, with the committee members participating from the committee's headquarters in Baton Rouge, and offenders appearing before the committee via videoconferencing at the designated prison facility.

1. In the event a medical parole is being considered and the offender is unable to appear via videoconferencing, the committee shall travel to the prison facility at which the offender is housed to conduct the hearing.

2. In the case of videoconferencing, the family, friends, and attorney of the offender shall be at the location of the offender.

3. In the case of videoconferencing, the victim(s) may be at the location of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq. and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended LR 28:1597 (July 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013).

### **§513. Single-Member Action**

A.1. A single committee member may act upon the following matters which have been reviewed and recommended by the Division of Probation and Parole:

- a. activity reports (see §1103); and
- b. violation reports (see §1109);
- c. activity and/or violation reports from other states via the interstate compact agreement.

2. A single committee member may also review the file of those offenders who have a parole eligibility date but who are ineligible for release, including offenders whose parole eligibility hearing date falls within 90 days of the offender's release on diminution of sentence/parole supervision.

3. The duty officer may rescind parole as provided in §505.L, pending another parole hearing.

4. The duty officer may add or remove conditions relative to parolees, as recommended by the Division of Probation and Parole and/or committee counsel on matters in litigation.

a. In the event the committee member fails to follow the recommendation of the Division of Probation and Parole, the matter shall be automatically scheduled for consideration by a three-member panel at the next available public hearing date.

B. Written documentation must be placed in the offender's file which clearly documents the reason for the decision by the single member panel.

C. Under no circumstances should a committee member sign a blank form concerning single-member action matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013).

### **§514. Voting/Votes Required**

#### **A. Unanimous Vote**

1. A unanimous vote is required to grant parole or to recommend work release regardless of the number of committee members at the parole hearing, except as provided for in Paragraph 2 of this Subsection.

2. Notwithstanding any other provision of law, no person convicted of a crime of violence against any peace officer as defined in R.S. 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the committee are present and all members present vote to grant parole.

3. A unanimous vote is required to consider any action when the offender is not present as described in §511.B.2.b or §513.A.4.a.

4. All special conditions of release, including special conditions of diminution of sentence/parole supervision release, shall be approved by a unanimous vote of the panel.

#### **B. Majority Vote**

1. The committee may grant parole with two votes of a three-member panel, or, if the number exceeds a three-member panel, a majority vote of those present if all of the following conditions are met.

a. The offender has not been convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of an offense which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of conviction.

b. The offender has not committed any disciplinary offenses in the 12 consecutive months prior to the parole eligibility date.

i. If the offender's period of incarceration is less than 12 months, the offender must not have committed any disciplinary offenses during his/her entire period of incarceration.

c. The offender has completed the mandatory minimum of 100 hours of pre-release programming in accordance with R.S. 15:827.1.

d. The offender has completed substance abuse treatment as applicable.

e. The offender has obtained a GED credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a GED credential due to a learning disability. If the offender is deemed incapable of obtaining a GED credential, the offender must complete at least one of the following:

- i. a literacy program;
- ii. an adult basic education program; or
- iii. a job skills training program.

f. The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the Secretary of the Department of Public Safety and Corrections.

2. A majority vote is required to revoke parole.

3. A majority vote is required to continue or recess a meeting or hearing.

4. A majority vote is required to grant an offender's request for a rehearing.

5. A majority vote is required for executive session.

C. Once the panel votes to grant or deny parole at a particular hearing, the vote may not be rescinded at that hearing.

D. If a member of a panel moves that a particular condition of parole be considered and determined prior to the vote to grant or deny parole, that issue shall be determined prior to the vote on parole. Otherwise, following a vote granting parole, the panel shall consider whether to impose special conditions of release.

E. The ex officio member of the committee is a non-voting member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013).

## **Chapter 7. Parole Decisions**

### **§701. Policy Statement**

A. It shall be the policy of the committee to give every offender meaningful consideration for parole. The committee will exercise its discretionary releasing authority based upon consideration of the unique factors and variables of the individual case. The committee shall determine release suitability of eligible offenders through decisions that promote fairness, objectivity, and public safety and are responsive to the concerns of victims, members of the community, and other persons within the criminal justice system.

B. The committee shall consider all pertinent information (pre-parole investigation and institutional record) at least six months prior to the offender's parole eligibility date. The information shall be a part of the offender's consolidated summary record. At a minimum, a pre-parole investigation shall be made available to the panel for its review. No case may be considered for parole release without a pre-parole investigation.

C. The panel shall apply the following guidelines as a basis, but not as the exclusive criteria, upon which parole panels base parole release decisions.

#### **1. Nature and Circumstances of the Crime**

a. The committee will evaluate and consider the circumstances of the crime based upon the official version of the offense, as well as the victim's and offender's versions of the offense, to determine, if possible, whether the particular conditions that contributed to the commission of the crime are likely to reoccur.

b. The committee shall also consider the seriousness of the offense, the offender's role in the offense and the degree of his involvement, whether the offender was the instigator of the crime, and whether the crime was premeditated.

c. Particular consideration will be given to those cases which involved the use of a weapon and/or caused injury to the victim; where the offender committed one or more violent acts indicating a conscious disregard for the lives, safety, or property of others; or the instant offense has elements of brutality, violence, or conscious selection of victim's vulnerability such that the offender poses a continuing threat to public safety.

#### **2. Prior Criminal Record**

a. The committee will evaluate and consider any available prior adult and/or juvenile records and the number and seriousness of prior convictions including the length of time between any prior convictions and the commitment of the instant offense to determine the seriousness of the offender's prior criminal history.

b. A pattern of repeated criminal episodes or a pattern of similar offenses may indicate a predisposition to commit criminal acts upon release and the likelihood that the offender will not succeed on parole.

c. The committee may also consider whether the instant offense was committed while the offender was on probation or parole, and the offender's response to prior community supervision, if any.

#### **3. Character, Social Background, and Emotional and Physical Condition**

a. The committee will evaluate and consider information pertaining to the offender's work record, level of education, occupational skills, and evidence of emotional stability.

b. A history of chronic drug and alcohol abuse may evidence the likelihood that the offender will not succeed on parole.

#### **4. Institutional Adjustment**

a. The committee will evaluate and consider information concerning the offender's attitude while incarcerated, including the offender's participation in available programs and his overall compliance with institutional regulations.

b. Obedience to institutional rules may evidence that the offender will comply with parole conditions, while a disciplinary record consisting of major and/or minor infractions may be viewed negatively.

c. Offenders assigned to working cellblock or disciplinary detention/extended lockdown or otherwise assigned to cellblock areas for disciplinary reasons would generally not be considered a good risk for early release and will, therefore, be ineligible for parole consideration until such time as the offender has not been in lockdown status for a period of six months.

#### **5. Police, Judicial and Community Attitudes toward the Offender**

a. The committee will evaluate and consider information concerning the offender from the community and public officials who are acquainted with the case.

b. This factor is given greater weight because the probability that an offender will succeed on parole is greatly diminished if he will return to a community which has expressed hostility toward him and is lacking support for him.

c. Evidence of official and/or community support may increase the likelihood of parole.

#### **6. Parole Plan**

a. The committee will evaluate and consider the strength of the offender's social ties, including whether he has a supportive family, resources available to him in the community, and employment opportunities.

b. The committee will place emphasis on the appropriateness of the parole plan; therefore, it is important for the offender to have secure employment plans and a stable living arrangement available upon parole.

c. Lack of an acceptable parole plan may decrease the likelihood of parole.

7. Program Participation. The committee will evaluate and consider an offender's participation in vocational training, adult education, or reading programs as well any treatment or rehabilitation program that has been certified by the department. Such participation is considered beneficial.

8. Risk Assessment

a. All Offenders. The committee will consider the risk assessment score provided by the Department of Public Safety and Corrections. The score is determined by a validated risk assessment instrument that has been validated for the Louisiana offender population. The assessment identifies potential risk and identifies programmatic needs of offenders. The assessment is conducted utilizing two sets of components, static and dynamic factors.

i. Static factors include:

- (a). age at first arrest;
- (b). history of revocations;
- (c). history of mental health problems;
- (d). employment history;
- (e). type of criminal record;
- (f). history of drug/alcohol abuse; and
- (g). number of felony convictions.

ii. Dynamic factors include:

- (a). the offender's current age;
- (b). whether the offender is a confirmed security threat group (gang) member;
- (c). educational, vocational, or other certified treatment and rehabilitation programs completed during the present incarceration;
- (d). prison disciplinary conduct;
- (e). current prison custody level; and
- (f). current mental health status.

b. Sex Offenders. The committee shall consider the actuarial risk assessment for sex offenders that has been adopted by the department. The use of this risk assessment is intended to be a measure of long-term risk potential. The committee shall consider reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, as to whether the offender has actively participated in a sex offender treatment program; and whether, in the expert's opinion, there is a likelihood that the offender will or will not repeat the criminal conduct and that the offender will or will not be a danger to society.

c. No offender may be paroled while there is pending against him any indictment or information for any crime suspected of having been committed by him while a prisoner.

d. The use of these assessments does not imply the creation of any parole release formula, or a right or expectation by an offender to parole based upon the guidelines. The assessments are not to be construed so as to mandate either a favorable or unfavorable parole decision. The assessments serve as an aid in the parole decision process and the parole decision shall be at the discretion of the voting parole panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300

(December 1998). amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2265 (August 2013).

**§703. Result of Decision to Grant or Deny Parole**

A. The committee's decision to grant or deny parole will be made and disclosed to the offender at the time of the parole hearing and he will be furnished with a copy of the parole decision form. The parole decision form shall also be made available to the administration at the facility housing the offender.

1. The original parole decision form will be placed in the offender's DOC record and will serve as the authority for the certificate of parole to be prepared.

2. The certificate will then be forwarded to the Division of Probation and Parole district office where the offender will be supervised while on parole.

B. No physical release from custody shall be authorized by the granting of a parole eligibility date that extends beyond six months from the date of the hearing; nor shall release be authorized until all notice requirements, if any, have been timely made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013).

**§705. Application for Parole Rehearing**

A. An offender must apply in writing for a parole rehearing. The written request must contain the following information (at a minimum):

1. name/DOC#;
2. current housing location:
  - a. name of facility;
  - b. custody status;
  - c. whether or not offender is currently in disciplinary lockdown;
3. date of last parole hearing;
4. conduct reports:
  - a. total reports;
  - b. date of last report;
5. self help program participation, including educational or other programs;
6. physical or psychological problems and treatment received, if any;
7. job plan/residence plan;
8. final comments (any other comments the offender wishes the committee to consider when reviewing the request for rehearing).

B. The written request for rehearing may be submitted by the offender and/or his attorney.

C. Application for a parole rehearing will be allowed only under the following conditions.

1. The offender must not have had a major (schedule B) disciplinary misconduct report in the six months prior to the reapplication request;

2. The offender must not have been in disciplinary lockdown status for a period of six months prior to the reapplication request.

3. If both criteria in §705.C.1 and 2 are met, an offender may apply to the committee for a rehearing at the following intervals.



Type of Crime	Initial Request for Rehearing	Subsequent request for Rehearing <sup>1</sup>
Nonviolent, except as otherwise restricted	6 mos after original date of denial	6 mos after date of initial reapplication
Crime of Violence enumerated in R.S. 14:2(B)	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Crime Against Person enumerated in R.S. 14:29-47	1 yr after original date of denial	Every 2 yrs after date of initial reapplication
Sex Offense as defined in §903	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Murder, 1st or 2nd degree	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication
Manslaughter	2 yrs after original date of denial	Every 2 yrs after date of initial reapplication

<sup>1</sup>Subsequent request for rehearing may be submitted if initial request for rehearing was denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013).

#### §707. Parole Plans

A. In order for an offender to be considered for parole release, the offender must have a viable transition plan that includes housing, potential job opportunities, and a support network that can incorporate family, friends, church and rehabilitative programs. The plans for housing and employment will be investigated and approved by the Division of Probation and Parole.

##### B. In-State Parole

1. The committee will not issue a certificate of parole to anyone granted parole until the residence plan has been approved by the Division of Probation and Parole. The committee has authority to waive employment plans for a specified amount of time. These plans should be given to the classification officer at the correctional facility at the pre-parole interview or mailed directly to the committee four months prior to the parole eligibility date.

2. A parole hearing may be held as docketed without approved residence or employment plans. Parole may be granted at the hearing, subject to the plans being approved through the Division of Probation and Parole. Approved employment plans may enhance the possibility for a favorable parole decision.

##### C. Out-of-State Parole

1. Out-of-state parole plans may be considered when the state in question issues a written statement expressing its willingness to accept the parolee under specific residential and employment conditions. Release will be deferred until such approval is received by the committee.

2. Before any parolee can be considered for a plan of supervision in another state, the offender shall sign an application for interstate compact services agreement to return (waiver of extradition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Department of Public Safety

and Corrections, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013).

#### §709. Parole to Detainer

A. When the committee determines that it would be in the best interest of the public and the inmate, parole may be granted subject to any outstanding detainers or notices that are held by local and/or immigration authorities. Once the parolee is released from the detaining authority, he must report to the Division of Probation and Parole district office where he will be supervised while on parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013).

#### §711. Conditional Parole

A. When the committee determines that it would be in the best interest of the public and the offender, the committee may require successful completion of a committee-approved program (i.e., substance abuse treatment, transitional work program, 100 hours of pre-release training, reentry program, attainment of GED) as a prerequisite to release on parole. The committee may specify which programs are committee-approved.

1. In no event, however, may the physical release from custody on parole extend beyond six months from the hearing date.

2. If the offender has not successfully completed the program in six months from the hearing date, the committee shall rescind or reconsider his parole and schedule a subsequent hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013).

### Chapter 9. Conditions of Parole

#### §901. Certificate of Parole

A. The certificate of parole will not become operative until specific conditions of release have been acknowledged and agreed to in writing by the offender.

1. The offender shall be advised orally and in writing of the conditions of parole prior to his release from incarceration.

2. The conditions of parole shall include, but not be limited to, those conditions contained in the certificate of parole, as approved by the committee and the Division of Probation and Parole pursuant to the provisions of R.S. 15:574.4.

B. Special conditions of parole, in addition to those required by R.S. 15:574.4 may be imposed and may include one or more of the following:

1. attendance at AA/NA meetings (the committee may specify the number of meetings to attend weekly);
2. mental health evaluation and treatment;
3. substance abuse evaluation and treatment;
4. payment of restitution for a direct pecuniary loss other than damage to or loss of property;
5. payment of fines and/or costs of court;
6. prohibited contact with the victim(s);

7. prohibited contact with co-defendant(s);
8. required GED, vo-tech or other educational plan;
9. compliance with treatment plan as ordered in the mental health or substance abuse treatment provider;
10. any other special conditions the committee may deem appropriate.

C. The committee shall impose special conditions of parole as set forth below.

1. When the victim's loss consists of damage to or loss of property, payment of restitution, either in a lump sum amount or in monthly installments based on the offender's earning capacity and assets. If the victim has been paid for such damage to or loss of property with monies from the Crime Victims Reparations Fund, the committee shall order the parolee to make payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. The Department of Public Safety and Corrections shall verify that prior payment has not been made by the parolee.

2. If the offender has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the committee shall require the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the committee and based upon the offender's ability to pay.

3.a. If the offender does not have a high school degree or its equivalent, the committee shall require the offender to enroll in and attend an adult education or reading program until he obtains a GED, or until he completes such educational programs required by the committee, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the offender.

b. If it is determined that there are no adult education or reading programs in the parish in which the offender will be residing, or that the offender is unable to afford such a program, or attendance would create an undue hardship, this condition may be suspended.

c. The provisions of §901 shall not apply to those offenders who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013).

### §903. Sex Offenders; General

A. The term *sex offender* shall refer to an offender/parolee who has been convicted for the commission or attempted commission of any of the following offenses (R.S. 15:541(24), or the equivalent, if committed in another jurisdiction:

1. aggravated rape, forcible rape, simple rape;
2. sexual battery, aggravated sexual battery, oral sexual battery, aggravated oral sexual battery;
3. intentional exposure of AIDS virus;
4. bigamy, abetting in bigamy;
5. incest, aggravated incest;

6. carnal knowledge of a juvenile, indecent behavior with a juvenile, pornography involving a juvenile, molestation of a juvenile;

7. crime against nature; aggravated crime against nature; crime against nature, solicitation (solicitation of persons under 17);

8. contributing to the delinquency of juveniles by the performance of any sexual immoral act;

9. human trafficking, trafficking of children;

10. computer aided solicitation of a juvenile;

11. sexual battery of the infirm;

12. obscenity by solicitation (of a person under the age of 17); or

13. video voyeurism; voyeurism, second or subsequent offense.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by the the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2268 (August 2013).

### §907. Additional Notification and Registration Requirements for Sex Offenders if Victim Is under Age 18

A. In addition to any other notification requirement imposed by law, within three days of its decision to release a sex offender whose victim was under 18 years of age at the time of the commission of the offense, the committee shall mail notice by registered or certified letter to the victim or the victim's parent or guardian if they were not present at the parole hearing, unless the victim or relative has signed a written waiver of notification, with a statement indicating:

1. that the sex offender will be released on parole;
2. the date the sex offender will be released; and
3. the address where the sex offender will reside.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2268 (August 2013).

### §909. Special Conditions—Sex Offenders

A. In addition to the requirements and conditions as set forth in this Chapter, all sex offenders shall be subject to any special conditions as required by the committee including, but not limited to signs, handbills, bumper stickers, or clothing labeled to that effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2268 (August 2013).

### §911. Release of Information

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), repealed by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2268 (August 2013).

**Chapter 15. Parole Suspension and Termination**

**§1501. Suspension of Supervised Parole**

A. After a minimum of 18 months supervised parole and upon the recommendation of the Division of Probation and Parole, the committee may determine that a parolee merits unsupervised parole and may suspend a parolee's supervision.

1. A parole officer may recommend that an offender be placed in suspended status if the offender meets the following criteria:

- a. completed a minimum of 18 months supervision;
- b. is a first or second felony offender;
- c. scored "minimum" on the LARNA;
- d. has completed all special conditions ordered by the sentencing judge and/or committee;
- e. has remained conviction free (excludes minor traffic and local municipal statutes) for the period of supervision and has no pending criminal matters;
- f. is a non-DWI case;
- g. is free of any conviction, deferred adjudication withheld for a sex offense as defined is R.S. 15:541;
- h. is a current non-violent offender (a prior violent offense does not rule out the recommendation for suspended status if the current case meets eligibility requirements).

1. Exceptions to Subparagraph A.1.h:

- a. parole case with a current violent offense that has been on supervision for at least five years and has remained arrest free;
- b. parole case with a current violent offense with a medical or physical condition and is no longer considered a threat to public safety;
- c. parole case with a current violent offense who has been displaced to another state due to emergency situation (i.e., hurricane or other natural disaster) and who do not have a residence plan in Louisiana.

B. A parolee in suspended status may be subject to revocation for parole violations committed prior to the expiration of his full term discharge date. The parolee may be returned to maximum supervision any time prior to the expiration of his full-term discharge date if the Division of Probation and Parole makes a report showing that such supervision is in the interest of either the public or the parolee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013).

**§1503. Termination of Parole**

A. When a parolee has completed his sentence, he will be given a certificate of discharge from the Department of Public Safety and Corrections. The committee cannot terminate parole prior to the parolee's full-term discharge date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Department of Public Safety and Corrections, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013).

Sheryl M. Ranatza  
Chairman

1308#005

**RULE**

**Office of the Governor  
Board of Pardons  
Committee on Parole**

Parole—Eligibility, Conditions, Violations,  
Time Served and Grievance Procedure  
(LAC 22:XI.301-311, 901-909,  
1101-1117, 1301, and 1701-1705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons, Committee on Parole hereby amends and promulgates rules of LAC 22:XI.301-311, 901-909, 1101-1117, 1301, and 1701-1705. This rulemaking implements Act 792 of the 2010 Regular Session of the Louisiana Legislature and Act 714 of the 2012 Regular Session of the Louisiana Legislature. Act 792 provides for good behavior credit while on parole. Act 714 creates the Committee on Parole. Technical revisions include deleting reference to Board of Parole and adding reference to Committee on Parole.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE  
AND LAW ENFORCEMENT**

**Part XI. Committee on Parole**

**Chapter 3. Parole—Eligibility and Types**

**§301. General Information**

A. The authority for determining parole eligibility dates, offender class, good time release dates and full-term dates will be the official master prison record computed by the Louisiana Department of Public Safety and Corrections. The board may accept changes in the offender class and parole eligibility dates when recommended by the Division of Probation and Parole and verified by the records custodian of the Department of Public Safety and Corrections. No offender may be paroled while there is pending against him any indictment or bill of information for any crimes suspected of having been committed by him while a prisoner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013).

**§303. Regular Parole**

A. An offender's eligibility is specified by Louisiana law. Parole eligibility is generally based on the nature of the offense, offender class, and length of time served. Not all offenders are eligible for parole consideration. Parole eligibility is determined and calculated by the Department of Public Safety and Corrections.

B. Generally within six months prior to an offender's parole eligibility date, all pertinent information will be compiled concerning the offender's case, including but not limited to:

1. the nature and circumstances of the offense;
2. prison records;
3. the pre-sentence investigation report;
4. the pre-parole report including recommendations from the Division of Probation and Parole; and
5. any other information (including correspondence), reports, or data as may be generated.

C. If appropriate, a public hearing shall be scheduled.

D. The committee will not schedule a parole hearing or rehearing when there is less than 90 days between the parole eligibility date and the diminution of sentence/parole supervision release date (good time release date). A hearing will not be held if the pre-parole investigation has not been received by the committee from the Division of Probation and Parole or if the victim has not been notified prior to the scheduled public hearing.

E. In the event an offender chooses to withdraw from parole consideration, he may reapply for a hearing in accordance with §705.

F. Parole hearings may be held during the six months prior to the parole eligibility date.

G. No offender who is the parent, stepparent, or has legal and physical custody of a child who is the victim, shall be released on parole unless the victim has received psychological counseling prior to the inmate's release if the inmate is returning to the residence or community in which the child resides [see R.S. 15:572(a)(4)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013).

### §305. Impact Parole

A. A person otherwise eligible for parole, convicted of a nonviolent first felony offense or of a nonviolent second felony offense, but never having served time in the custody of the Department of Public Safety and Corrections, may be eligible for intensive parole supervision upon successful completion of intensive incarceration.

1. The intensive incarceration and parole supervision program is administered by the Department of Public Safety and Corrections. The offender voluntarily enrolls in the program after having been advised by the Department of Public Safety and Corrections of the rules and regulations governing the participation in the program.

B.1. When an offender completes intensive incarceration, the committee shall review the case in a public hearing in accordance with §511 to determine whether the offender should be released on intensive parole supervision or serve the remainder of his sentence as provided by law. Such review shall include:

- a. an evaluation of the offender's performance while incarcerated;
- b. the likelihood of successful adjustment on parole; and
- c. other factors deemed relevant by the committee.

2. The committee may defer any final decision and reschedule the consideration for the next scheduled hearing at the Elayn Hunt Correctional Center.

C. When the offender is released to intensive parole supervision by the committee, the committee shall require the offender to comply with conditions of intensive parole supervision in accordance with R.S. 15:574.4(H) in addition to any other conditions of parole ordered by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2296 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2270 (August 2013).

### §307. Medical Parole

A. An offender determined by the secretary of the Department of Public Safety and Corrections to be permanently incapacitated or terminally ill may be eligible for release consideration.

1. Upon referral by the Department of Public Safety and Corrections, the committee may schedule the offender for a hearing for medical parole consideration.

2. Offenders who are serving a sentence for first or second degree murder, who are awaiting execution, or who have a contagious disease are not eligible.

B. *Permanently Incapacitated Offender*—any offender who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society.

C. *Terminally Ill Offender*—any offender who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

D. Public hearings for medical parole consideration will be held at a location convenient to the committee and the offender. The committee may request that additional medical information be provided or that further medical examinations be conducted.

E. The authority to grant medical parole shall rest solely with the committee.

1. The committee shall not grant medical parole unless advised by the secretary of the Department of Public Safety and Corrections or the Secretary's designated healthcare authority that the offender is permanently disabled or incapacitated.

2. The committee, if it grants medical parole, may establish any additional conditions of medical parole as it may deem necessary to monitor the offender's physical condition and to assure that the offender is not a danger to himself and society.

F. Supervision of an offender released on medical parole shall consist of periodic medical evaluations at intervals to be determined by the committee at the time of release.

1. An offender released on medical parole may have his parole revoked if his medical condition improves to such a degree that he is no longer eligible for medical parole.

2. Medical parole may also be revoked for violation of any condition of parole as established by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297

(December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2270 (August 2013).

**§309. Diminution of Sentence (Good Time/Parole Supervision Release)**

A. Each offender released on diminution of sentence/parole supervision shall be subject to conditions of parole pursuant to R.S. 15:574.4(H) and Chapter 9 of these rules.

B. If an offender violates a condition of his diminution of sentence/parole supervision release or other conditions imposed by the committee shall proceed in the same manner as in revocation matters pertaining to those granted regular parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2271 (August 2013).

**§311. Work Release**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), repealed by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2271 (August 2013).

**Chapter 9. Conditions of Parole**

**§901. Certificate of Parole**

A. The certificate of parole will not become operative until specific conditions of release have been acknowledged and agreed to in writing by the offender.

1. The offender shall be advised orally and in writing of the conditions of parole prior to his release from incarceration.

2. The conditions of parole shall include, but not be limited to, those conditions contained in the certificate of parole, as approved by the committee and the Division of Probation and Parole pursuant to the provisions of R.S. 15:574.4.

B. Special conditions of parole, in addition to those required by R.S. 15:574.4, may be imposed and may include one or more of the following:

1. attendance at AA/NA meetings (the committee may specify the number of meetings to attend weekly);
2. mental health evaluation and treatment;
3. substance abuse evaluation and treatment;
4. payment of restitution for a direct pecuniary loss other than damage to or loss of property;
5. payment of fines and/or costs of court;
6. prohibited contact with the victim(s);
7. prohibited contact with co-defendant(s);
8. required GED, vo-tech or other educational plan;
9. compliance with treatment plan as ordered in the mental health or substance abuse treatment provider;
10. any other special conditions the committee may deem appropriate.

C. The committee shall impose special conditions of parole as set forth below.

1. When the victim's loss consists of damage to or loss of property, payment of restitution, either in a lump sum amount or in monthly installments based on the offender's

earning capacity and assets. If the victim has been paid for such damage to or loss of property with monies from the Crime Victims Reparations Fund, the committee shall order the parolee to make payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. The Department of Public Safety and Corrections shall verify that prior payment has not been made by the parolee.

2. If the offender has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the committee shall require the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the committee and based upon the offender's ability to pay.

3.a. If the offender does not have a high school degree or its equivalent, the committee shall require the offender to enroll in and attend an adult education or reading program until he obtains a GED, or until he completes such educational programs required by the committee, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the offender.

b. If it is determined that there are no adult education or reading programs in the parish in which the offender will be residing, or that the offender is unable to afford such a program, or attendance would create an undue hardship, this condition may be suspended.

c. The provisions of §901 shall not apply to those offenders who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2271 (August 2013).

**§903. Sex Offenders; General**

A. *Sex Offender*—an offender/parolee who has been convicted for the commission, attempted commission, or conspiracy to commit any offense as cited in R.S. 15:541, or the equivalent, if committed in another jurisdiction. The committee will consider any offender who has been convicted of a sex offense, when the law permits parole consideration for that offense and the offender is otherwise eligible.

B. In addition to any other notification requirement imposed by law, any sex offender released on parole shall be required to register and provide notification as a sex offender in accordance with R.S. 15:542 et seq.

C. Any sex offender released on parole shall be required to comply with the prohibitions and conditions of parole detailed in 15:538 et seq.

D. Any sex offender released on parole shall be required to comply with conditions of R.S. 15:574.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by the Board of Pardons/Committee on Parole, LR 38:2622 (October, 2012), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2271 (August 2013).

## **§905. Notification and Registration**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the Board of Pardons/Committee on Parole, LR 38:2623 (October, 2012), repealed by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013).

## **§907. Additional Notification and Registration Requirements for Sex Offenders if Victim Is under Age 18**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), amended by the Board of Pardons/Committee on Parole, LR 38:2623 (October, 2012), repealed by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013).

## **§909. Special Conditions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998), repealed by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013).

## **Chapter 11. Violations of Parole**

### **§1101. Types of Violations**

#### **A. New Felony Conviction—Automatic Revocation**

1. Parole will be automatically revoked when a parolee is convicted and sentenced in Louisiana for a new felony and the appeal process has been exhausted. Prior to documented proof that the appeal process has been exhausted, the committee may revoke a parolee for technical violations at a public hearing.

2. A parolee who is convicted of a new felony in another state, or of a misdemeanor which if committed in this state would be a felony, shall have his parole revoked.

#### **B. Technical Violations**

1. Technical violations include any violations of the conditions of parole which are not felony convictions. Engaging in conduct constituting a felony or misdemeanor offense, even if not adjudicated, may be considered a technical violation for revocation purposes.

2. When a parolee has been detained in jail by the Division of Probation and Parole, a pre-revocation on-site hearing (preliminary hearing) will be scheduled as soon as possible. Subsequent to the preliminary hearing, bond may be permitted, but only with authorization of the committee.

#### **C. Absconders**

1. A parolee may be considered to have absconded supervision if he absents himself from his approved place of residence without permission from the Division of Probation and Parole.

2. When apprehended, absconders will be immediately returned to the custody of the Department of Public Safety and Corrections for a revocation hearing.

a. Out of state absconders will not be entitled to a pre-revocation hearing (preliminary hearing).

b. Extradition or waiver of extradition shall be considered as probable cause for absconders apprehended out-of-state.

c. Upon return to the custody of the department, a parole revocation questionnaire shall be completed and forwarded to the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013).

### **§1103. Activity Report**

A. An activity report is used by the Division of Probation and Parole to advise the committee of an offender's actions for informational purposes. An activity report may, or may not, require action by the committee.

B.1. If action by the committee is necessary, the activity report will normally be used to recommend the following:

- a. issuance of an arrest warrant;
- b. issuance of a reprimand (usually not in custody);
- c. removal of a detainer to allow bond;
- d. suspension of supervision;
- e. unsatisfactory termination of parole;
- f. addition or deletion of special parole conditions;
- g. recalling a warrant.

C. Upon receipt of the activity report, the case will be placed on the single-member action docket for a decision.

D. After the case has been acted upon, a decision notice will be forwarded to the probation and parole district office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013).

### **§1105. Pre-Revocation Hearing for Detained Parole Violators—Preliminary Hearing**

A. The pre-revocation hearing (preliminary hearing) is a preliminary due process administrative hearing which is conducted by a hearing officer designated by the Division of Probation and Parole. The hearing officer will have no direct prior knowledge of the parolee and the circumstances surrounding the allegations.

1. The purpose of the preliminary hearing is to determine if there is probable cause that the parolee has violated the conditions of his parole.

2. A finding of probable cause may support the continued detention of the parolee pending a final revocation hearing.

3. The allegations and findings presented in the preliminary hearing documents will be the foundation for revocation or other specified action. The preliminary hearing will be conducted within a reasonable time following detention and in the locale or vicinity close to where the alleged violation occurred so that the offender has access to both favorable and adverse witnesses.

B.1. Prior to the preliminary hearing, written notification will be furnished to the parolee advising him of:

- a. the charges pending against him;
  - b. his rights at the hearing; and
  - c. the date, time, and place of the hearing.
2. The parolee may request deferral of the preliminary hearing pending disposition of new felony charges.

C.1. The parolee may retain an attorney or, if eligible, be represented by appointed counsel.

2. Documentary evidence and oral testimony may be taken from all participants present at the hearing, including witnesses and the parolee's friends and family.

3. At the conclusion of the hearing, the hearing officer will issue a ruling as to probable cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013).

### **§1107. Findings by Hearing Officer**

A. The hearing officer who presides at the preliminary hearing will issue a finding of probable cause or no probable cause.

1. If no probable cause is found, the hearing officer shall order the parole violation detainer to be lifted and the alleged violator released from custody.

2. If probable cause is found, the Division of Probation and Parole will make one of the following recommendations to the committee:

- a. that the parole violator be detained;
- b. that the parole violator be allowed to make bond, if new charges are pending, while awaiting a final decision from the committee;
- c. that the parole violator remain incarcerated, without bond, pending disposition of the charge;
- d. that the parole violator be reprimanded and continued under parole supervision.

3. If probable cause is found, the parole revocation questionnaire will be completed and forwarded to the committee.

B. A copy of the finding will be given to the parolee and a copy forwarded to the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013).

### **§1109. Violation Report**

A.1. The Division of Probation and Parole utilizes a violation report to document and notify an offender's violation of the conditions of parole. The violation report is used to:

- a. formally advise the committee of a parolee's current violations;
- b. summarize a parolee's conduct on supervision; and
- c. make recommendations to the committee for action on the violations of parole conditions.

2. The action requested may be of an interim nature or for final disposition.

B. The violation report will normally be used to recommend the following:

1. automatic revocation;

2. hold pending disposition of charges;
3. revocation of parole;
4. allow bond pending disposition of charges;
5. impose, add, or modify special conditions of parole;
6. reprimand; and
7. unsatisfactory termination of parole.

C. The Division of Probation and Parole will prepare the violation report within five working days following receipt of the preliminary hearing findings from the hearing officer or five working days from the date the parolee waived or deferred the preliminary hearing. The report, along with the preliminary hearing forms and other documents, shall be forwarded to the committee.

D. Upon receipt of the violation report and other documentation, the case will be placed on the single-member action docket.

E. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013).

### **§1111. Scheduling Parolees for Revocation Hearing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), repealed by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013).

### **§1113. Revocation Hearing**

A. The purpose of the final revocation hearing is to determine if one or more conditions of parole have been violated by the offender, and if such violation(s) are serious enough to warrant re-incarceration of the offender to serve the balance of his sentence.

B. The revocation hearing is a public hearing and shall be conducted as outlined in Chapter 3 of these rules.

C.1. The parolee:

- a. must be present for the hearing;
- b. may be represented by an attorney; and
- c. may normally have one witness testify on his behalf.

2. For good cause shown, the panel may permit the parolee to present additional witnesses. Reliable documentary evidence is admissible at the hearing.

D. A copy of the violation report with attachments will be provided to each panel member prior to the hearing, along with any other pertinent documents which may be submitted to the panel prior to or at the hearing.

E.1. The chairman of the panel, or his designee, shall:

- a. ensure the identification of the parolee; and
- b. obtain an acknowledgment that the parolee understands his rights related to the hearing.

2. The alleged violations will be read and the parolee will be asked to respond to each with "guilty" or "not guilty."

F.1. The parolee will be encouraged to speak for himself and to make a statement on his own behalf.

2. The parolee's attorney may speak on his behalf and/or advise him at any time throughout the hearing.

3. The district attorney or his or her representative may speak on behalf of the prosecution.

4. The board may request oral testimony from all participants present who have specific knowledge of the revocation violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013).

#### **§1115. Decision of the Parole Panel**

A. The panel may make one of the following decisions:

1. revocation of parole;
2. reprimand and restore to parole supervision with or without special conditions imposed;
3. unsatisfactory termination of parole if full term date of parole supervision has passed;

4. participation in a transitional work program for up to six months in lieu of revocation;

5. as an alternative to incarceration, in lieu of revocation, be committed to a community rehabilitation center or a substance abuse treatment program operated by, or under contract with, the Department of Public Safety and Corrections for period of time not to exceed six months, provided that the period of such commitment does not extend beyond the full parole term;

6. as an alternative to incarceration, in lieu of revocation, participation in other specific therapeutic programs as approved by the Department of Public Safety and Corrections and/or the Division of Probation and Parole.

B.1. The panel may elect to vote to continue or recess the hearing until certain testimony which was not available at the preliminary hearing can be heard or further evidence can be verified and presented.

2. The panel may also vote to recess and defer a decision until the outcome of pending charges. In this case, the parolee may be allowed to make bond on pending charges if so ordered by the panel. The board may then render a decision after receipt of additional evidence or after the disposition of the pending charge(s).

C.1. At the conclusion of the hearing, the panel will advise the offender orally of its decision and he will be furnished with a copy of the parole revocation decision form.

2. A copy of each parole revocation decision form will also be forwarded to the probation and parole district office assigned supervision of the offender.

3. At the end of each month, a copy of all revocation dockets reflecting the results of the hearings will be forwarded to all probation and parole district offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998) amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2274 (August 2013).

#### **§1117. Automatic Revocation for New Felony Conviction**

A. A final revocation hearing will not be held if the parolee has been convicted of a new felony while on parole,

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2274 (August 2013).

#### **Chapter 13. Time Served**

##### **§1301. Time Must Be Served if Revoked**

A.1. Offenders whose good time parole supervision or regular parole supervision is revoked by the Committee on Parole on or after January 1, 1992, shall receive good time on the jail credit awarded in accordance with R.S. 15:574.9(E).

2. An offender returned to incarceration for a parole violation that does not include a new sentence for a felony offense will be returned to serve the remainder of the original sentence as of the date of his release on supervision pursuant to R.S.15:571.5. An offender may receive flat credit for good behavior while on parole supervision. Such credit may be awarded from the date of release on parole supervision until the date a warrant or detainer that causes revocation is issued by the Committee on Parole, pursuant to Act 792 of the 2010 Regular Legislative Session.

3. An offender who has been granted parole by the committee before August 15, 1997 for a crime committed on or after July 26, 1972, and who has been revoked for violating the terms of parole granted by the committee, shall forfeit all good time earned on that portion of the sentence served prior to the granting of parole, up to a maximum

4. Notwithstanding the provisions of R.S. 15:574.9(B)(2)(a), an offender's good time parole supervision or regular parole supervision may be revoked by the Committee on Parole for violating technical conditions of his supervision. The remaining portion of the parole sentence shall begin on the revocation date as determined by the committee.

5. An offender who has been granted a regular parole or an IMPACT parole on or after August 15, 1997, and whose parole is revoked by the Committee on Parole for any reason, shall forfeit good time earned prior to parole as required by R.S. 15:571.4 and 15:574.4.2.

B. An offender returned to incarceration as a parole violator who has received a new sentence for a felony offense while on parole shall serve the remaining portion of the parole sentence consecutively or concurrently, as ordered by the court. The remaining portion of the parole sentence shall not begin prior to the imposition of the new felony sentence.

C. The committee accepts the official master prison record as issued by the Louisiana Department of Public Safety and Corrections in determining when sentences are concurrent or consecutive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., R.S. 15:540 et seq., and R.S. 15:571.5.



HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2274 (August 2013).

## **Chapter 17. Grievance Procedure**

### **§1701. Right to File a Grievance**

A. Any person may file a grievance under this procedure. However, no offender or parolee shall have the right to file a grievance against the board or committee members for the decisions enumerated in R.S. 15:574.11.

B. A grievance must be based upon a violation of the on Louisiana Committee Parole rules and procedures, Department of Public Safety and Corrections regulations, or the Louisiana *Revised Statutes*.

C. A person against whom a grievance is filed is entitled to be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2275 (August 2013).

### **§1703. Complaint Process**

A. All grievances must be made in writing and submitted to the chairman of the Board of Pardons. Upon receipt, the chairman shall review the grievance and, if appropriate, forward it to the proper agency or authority for further action.

B. If the grievance relates to the board, or a member of the Committee on Parole, or the department staff assigned to the board or committee, the chairman or his or her designee will investigate to determine if it has a basis in fact.

1. If the complaint is determined to have a basis in fact, the chairman will attempt to resolve the grievance.

2. If the chairman is unable to resolve the grievance, it shall be referred to a grievance committee. The committee shall consist of:

- a. the chairman of the board;
- b. the vice chairman (unless the chairman or vice chairman is the subject of the grievance); and
- c. any other person or persons jointly selected by the chairman and vice chairman.

C. If the grievance committee is unable to resolve the grievance, the matter will be forwarded together with any supporting documentation to the governor's executive counsel for resolution. Supporting documentation shall include the following information:

1. a reference to the relevant statute, rules, regulations and/or Code of Ethics, etc.;
2. a written summary of the attempts made to resolve the complaint; and
3. any other pertinent documentation.

D.1. In the event the grievance is against the chairman of the board, the complaint shall be submitted directly to the vice chairman. In this instance, the chairman will recuse himself or herself and shall not appoint a designee to the committee.

2. If the grievance is against the vice chairman, the vice chairman shall recuse himself or herself and shall not appoint a designee to the committee.

3. The remaining member of the grievance committee shall select a member of the committee to serve in place of the recused member.

4. If the complaint is against a committee member, that member shall not be selected to serve on the grievance committee.

E. The decision of the chairman, the grievance committee, or the executive counsel, whichever may apply, is final and not subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2275 (August 2013).

### **§1705. Resolution of Grievance**

A. A written response to the grievance shall be mailed to the complaining party.

B. If it is determined that a board member has violated the Louisiana Committee on Parole rules and procedures, Department of Public Safety and Corrections regulations, or the *Louisiana Revised Statutes*, a letter shall be issued notifying the board member of the violation and a copy forwarded to the governor for disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2275 (August 2013).

Sheryl M. Ranatza  
Chairman

1308#003

## **RULE**

### **Department of Health and Hospitals Addictive Disorder Regulatory Authority**

Counselor-in-Training (LAC 46:LXXX.707)

The Department of Health and Hospitals, Addictive Disorder Regulatory Authority, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and promulgates LAC 46:LXXX.707, Counselor-in-Training.

The Addictive Disorder Practice Act is found at R.S. 37:3386-3390.6. R.S. 37:3388.4(A)(5) and (12) authorizes the Addictive Disorder Regulatory Authority to promulgate rules for administration and carrying out provisions of the Addictive Disorder Practice Act. These amendments are adopted in accordance therewith.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXXX. Substance Abuse Counselors**

### **Chapter 7. Credentials for License/Certification/ Registration**

#### **§707. Counselor-in-Training (CIT)**

A. The ADRA shall recognize as a CIT each candidate who:

1. documents that they are actively pursuing a career tract to be a licensed, certified, or registered addiction counselor;

2. is at least 18 years of age;  
3. is a legal resident of the United States;  
4. is not in violation or pending violation of any ethical standards subscribed to by the ADRA or in the case of a credentialed mental health professional, with the appropriate regulatory board;

5. is not now, and has not been, engaged in addictive behaviors for at least a minimum of two years from the date the application is received;

6. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony, unless the individual has applied for and been granted a waiver by the ADRA;

7. the applicant shall provide the ADRA with an original certified copy of his/her background check and criminal history;

8. reads and signs the ADRA professional and ethical accountability and responsibility form;

9. obtained/completed 180 substance abuse addiction specific educational clock hours;

10. obtain a certified clinical supervisor (CCS);

11. the CIT status is granted for a 12-month period. During the 12-month period the CIT shall comply with the ADRA guidelines for CIT status and, if required, sign an agreement acknowledging and consenting to the provisions of the guidelines;

12. CIT shall be allowed to maintain the CIT status for an aggregate period not to exceed 72 months;

13. provide three letters of recommendation attesting to the individual's fitness to be a counselor in training;

14. the ADRA shall develop counselor-in-training program guidelines and certified clinical supervisor guidelines and shall post the guidelines on the web site maintained by the ADRA. The guidelines shall be considered the minimum standards applicable to all CITs and CCSs. It shall be the obligation of all CITs and CCSs to regularly consult the website and review the guidelines to insure familiarity and compliance with the minimum standards.

B. On the effective date of this Rule change, these eligibility requirements apply to any individual that currently holds the Counselor-in-Training (CIT) status:

1. documents that they are actively pursuing a career tract to be a licensed, certified, or registered addiction counselor;

2. is at least 18 years of age;

3. is a legal resident of the United States;

4. is not in violation or pending violation of any ethical standards subscribed to by the ADRA or in the case of a credentialed mental health professional, with the appropriate regulatory board;

5. is not now, and has not been, engaged in addictive for at least a minimum of two years from the date the application is received

6. has not been convicted of, pleaded guilty, or entered a plea of nolo contendere to a felony, unless the individual has applied for and been granted a waiver by the ADRA; the applicant shall provide the ADRA with a certified copy of his/her background check and criminal history;

7. reads and signs the ADRA professional and ethical accountability and responsibility form;

8. provide documentation verifying the completion of 180 substance abuse addiction specific educational clock hours that are required; if the total 180 hours have not been completed, the CIT must provide documentation verifying the total number of hours that have been completed thus far, after which time, the CIT has 12 months from the renewal date to complete the remaining hours;

9. maintain a certified clinical supervisor (CCS);

10. the CIT status is granted for a 12-month period. During the 12-month period the CIT shall comply with the ADRA guidelines for CIT status and, if required, sign an agreement acknowledging and consenting to the provisions of the guidelines;

11. CIT shall be allowed to maintain the CIT status for an aggregate period not to exceed 72 months;

12. assess with the CCS which of the 123 competencies that have been demonstrated thus far and at the time of the renewal provide documentation verifying such completion;

13. the ADRA shall develop counselor-in-training program guidelines and certified clinical supervisor guidelines and shall post the guidelines on the website maintained by the ADRA. The guidelines shall be considered the minimum standards applicable to all CITs and CCSs. It shall be the obligation of all CITs and CCSs to regularly consult the website and review the guidelines to insure familiarity and compliance with the minimum standards.

C. Once the counselor-in-training (CIT) status is issued, the individual must meet the following criteria to maintain the status:

1. maintain good standing with the ADRA Board per the code of ethical responsibility and accountability;

2. gain hours 300 of direct clinical supervision under a certified clinical supervisor (CCS);

3. depending on the credential working towards, gain 2000, 4000, or 6000 hours of supervised work experience under the supervision of any credentialed addiction professional or under the supervision of an agency;

4. accumulate a minimum of 20 hours of continuing education hours specific or related to substance abuse each year and provide documentation with annual renewal;

5. keep letters of reference, background checks and contact/demographic information current with the ADRA office. Any changes in supervision and/or contact information must be reported to the ADRA as soon as the changes become effective;

6. maintained supervision under a certified clinical supervisor (CCS) and/or credentialed addiction professional approved of by the ADRA. This supervision is described as taking two distinct forms:

a. direct clinical supervision (face-to-face) that may be accumulated at a rate of a minimum of 1 hour per week;

b. supervised work experience that may be accumulated at a maximum of 2000 hours in any calendar year (total required varies by credential);

7. in coordination with the CCS, develop a learning plan that incorporates acquiring the competences outlined in the Substance Abuse and Mental Health Services Administration (SAMHSA) Technical Assistance Publication Series for Addiction Counseling Competencies (TAP 21) (2006). This progressive process must be

documented in the learning plan annually as a requirement of the renewal of the status;

8. all 123 competencies must be verified by the CCS prior to the CIT process being deemed complete.

D. Scope of Work

1. The CIT status is granted for a 12-month period.

2. The CIT shall be allowed to maintain the CIT status for no more than 72 months (6 years).

3. CIT shall not practice independently before acquiring the 300 hours of direct clinical supervision.

4. After the CIT has completed the 300 hours of direct clinical supervision, he/she may work independently in the following four core functions only if a credentialed addiction professional is in the building or available by phone for consultation and supervision:

- a. screening;
- b. intake;
- c. orientation;
- d. client education.

5. After the CIT has completed the 300 hours of direct clinical supervision, he/she may continue to work in the remaining eight core functions under the direct supervision of a credentialed addiction professional as long as a CCS or a credentialed addiction professional is in the building or available by phone for consultation and supervision, and only after the current CCS on file with the ADRA has documented and verified with the ADRA that the CIT is capable of performing that core function AND has completed, with documentation and verification of, the TAP 21 competencies for that specific practice dimension. All 123 competencies must be signed-off-on by the CCS on file with the ADRA prior to the CIT testing:

- a. assessment;
- b. treatment planning;
- c. counseling;
- d. referral;
- e. crisis intervention;
- f. report and record keeping;
- g. consultation;
- h. case management.

6. In coordination with the CCS, develop a learning plan that incorporates acquiring the competences outlined in TAP 21, attached for reference. This progressive process must be documented in the learning plan at least annually as a requirement of the renewal of the status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3388.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:651 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 39:2275 (August 2013).

LaMiesa D. Bonton  
Executive Director

1308#053

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Continuing Education (LAC 46:XXXIII.1605 and 1619)

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 amends LAC 46:XXXIII.1605 and 1619.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 16. Continuing Education Requirements**

**§1605. Penalties**

A. ...

B.1. All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period.

2. A second violation of the continuing education requirements may be reported to the National Practitioner Data Bank, whereas the first violation will not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 39:2277 (August 2013).

**§1619. Violations**

Repealed.

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:26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), repealed LR 39:2277 (August 2013).

Peyton B. Burkhalter  
Executive Director

1308#032

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Documentation Filing  
(LAC 46:XXXIII.116, 911, and 1403)

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 amends LAC 46:XXXIII.116, 911, and 1403.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 1. General Provisions**

**§116. Reconsideration of Adverse Sanctions**

A. Any person wishing to initiate an application for reconsideration of an adverse disciplinary decision of the board or consent decree must make the request in writing and it shall be received by the board at its office no later than 30 days prior to the next scheduled meeting of the board in order for it to be placed on the board agenda for consideration. The request for reconsideration of adverse sanctions shall be filed with the board in conformity with LAC 46:XXXIII.911.

B. - I. ...

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 24:1113 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1890 (November 2001), amended LR 27:1893 (November 2001), LR 36:63 (January 2010), LR 39:2278 (August 2013).

**Chapter 9. Formal Adjudication**

**§911. Pleadings; Motions; Service**

A. All pleadings, motions or other papers permitted or required to be filed with the board shall be filed by personal delivery at or by mail to the office of the board or by email, in digital format, to the board. Pleadings, motions and other papers filed in pending adjudication proceedings shall certify that, by the same method of delivery, the same be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), amended LR 39:2278 (August 2013).

**Chapter 14. Rulemaking, Declaratory Opinions and Rules**

**§1403. Forms**

A. - C. ...

D. All petitions or documents filed with the board pursuant to this Rule shall be served upon the board in conformity with LAC 46:XXXIII.911. The petition or document filed pursuant to this Rule shall be received by the board no later than 30 days prior to the next scheduled meeting of the board in order for it to be placed on the board agenda for consideration.

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 19:1322 (October

1993), amended LR 24:1117 (June 1998), LR 25:1477 (August 1999), LR 39:2278 (August 2013).

Peyton B. Burkhalter  
Executive Director

1308#031

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Fees—Dentists, Dental Hygienists  
(LAC 46:XXXIII.415 and 419)

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 amends LAC 46:XXXIII.415 and 419.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 4. Fees and Costs**

**Subchapter C. Fees for Dentists**

**§415. Licenses, Permits, and Examinations (Dentists)**

A. - A.24. ...

25. 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).

**Subchapter D. Fees for Dental Hygienists**

**§419. Licenses, Permits and Examinations (Dental Hygienists)**

A. - A.13. ...

14. Annual fee to support well-being program—\$15

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8), R.S. 37:768, 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 23:1527 (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 37:590 (February 2011), LR:37:2151 (July 2011), LR 39:2278 (August 2013).

Peyton B. Burkhalter  
Executive Director

1308#030

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Patients' Records (LAC 46:XXXIII.318)

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 amends LAC 46:XXXIII.318.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 3. Dentists**

**§318. Patients' Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 40:1299.96.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 28:1777 (August 2002), LR 38:1960 (August 2012), repealed LR 39:2279 (August 2013).

Peyton B. Burkhalter  
Executive Director

1308#029

**RULE**

**Department of Health and Hospitals  
Board of Dentistry**

Temporary Licenses (LAC 46:XXXIII.120)

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 amends LAC 46:XXXIII.120.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Professions**

**Chapter 1. General Provisions**

**§120. Temporary Licenses**

A. Temporary Licenses for Dentists. In order to protect the public and to avoid abuses of the exemption granted in R.S. 37:752(8), the board will not issue temporary dental licenses except to those applicants applying for a license by credentials under the provisions of R.S. 37:3650 upon their application and payment of applicable fees.

B. Temporary Licenses for Dental Hygienists. The board may issue temporary dental hygiene licenses to the following applicants:

1. those dental hygiene license by credentials applicants who have met all criteria specified in §706 prior to the next regularly scheduled board meeting and have requested and paid all fees associated with a temporary dental hygiene license; or

2. those dental hygiene license by credentials applicants who are applying under the provisions of R.S. 37:3650 upon their application and payment of applicable fees.

C. Under the provisions of R.S. 37:3650, military trained dentists or hygienists applying for a license by credentials who do not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

1. proof of good standing of current, nonrestricted license in another jurisdiction;
2. proof that there has been no disciplinary action against the applicant's professional license in any jurisdiction;
3. proof of any military specialty training; and
4. proof of current active duty status and orders to be stationed in Louisiana; or
5. proof of honorable discharge within the 12 months immediately preceding the date of license by credentials application.

D. Under the provisions of R.S. 37:3650, the spouse of an active duty military member applying for a license by credentials who does not meet the practice requirements specified in §306.A.4.a-d or §706.A.4.a-b may apply for a temporary license in order to fulfill the practice requirements. Applicants must first apply for a license by credentials by meeting all other requirements listed in §306 or §706 and show their eligibility by providing the following documentation:

1. proof of good standing of current, nonrestricted license in another jurisdiction;
2. proof that there has been no disciplinary action against the applicant's professional license in any jurisdiction;
3. proof of military member's current active duty status;
4. proof of current marriage to the active military member; and
5. proof of military member's orders to be stationed in Louisiana.

E. Any application for a temporary license shall be accompanied by the applicant's license by credentials application and applicable fees.

F. Temporary license holders must practice within the state of Louisiana.

G. Temporary licenses granted under this Section shall be issued for no longer than six months. The licensee must submit documentation of satisfaction of the practice requirement to renew any temporary license for a subsequent six-month period.

H. In no case shall a temporary dental license be valid for longer than three years.

I. In no case shall a temporary dental hygiene license be valid for longer than one year.

J. Temporary licenses may be revoked:

1. for any reason set forth in R.S. 37:776 or R.S. 37:777;

2. should the board deny the application for any reason set forth in §307 or §707; or

3. for failure to satisfactorily prove the licensee's practice in the state of Louisiana.

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 24:1114 (June 1998), amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:2652 (December 2007), amended LR 33:2652 (December 2007), LR 38:2771 (November 2012), LR 39:2279 (August 2013).

Peyton B. Burkhalter  
Executive Director

1308#028

## RULE

### Department of Health and Hospitals Board of Nursing

#### Disaster Relief Special Health Care Event Temporary Permits (LAC 46:XLVII.3328)

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 amends Chapter 33 of its rules, in particular, by amending section 3328, in order to provide a mechanism for board staff to issue special healthcare event temporary permits to out of state registered nurses (RN) and advanced practice registered nurses (APRN), who are not currently licensed in the state of Louisiana, to perform nursing services in the state of Louisiana at free special healthcare events for the uninsured. RNs and APRNs applying for special healthcare temporary permits will be required to meet the same requirements for disaster relief permits, including but not limited to current, unrestricted license(s) in good standing by the licensing authority of another state, submission of a picture identification and proof of practice agreement (APRNs), and verification of employment. The permit will be issued upon such terms, conditions, limitations or restrictions to time, place, nature and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law. the special health care temporary permit is issued free of charge and will be valid during the date(s) of the event and as approved by the board.

#### Title 46

### PROFESSIONAL OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

#### Subpart 2. Registered Nurses

#### Chapter 33. General

#### Subchapter C. Registration and Registered Nurse

#### Licensure

#### §3328. Disaster Relief Special Health Care Event Temporary Permits

A. The board may issue disaster relief temporary permits to an individual to practice as a registered nurse or advanced practice registered nurse to provide gratuitous or non-gratuitous nursing services in this state during a public health emergency, and for such periods thereafter as approved by the board.

B. The board may issue a special healthcare event temporary permit to an individual to practice as a registered nurse or advanced practice registered nurse to provide services in Louisiana, during a gratuitous special healthcare event.

C. Disaster relief permits and special healthcare event temporary permits may be issued provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice as a registered nurse or as an advanced practice registered nurse;

2. presents or causes to be presented to the board:

a. picture identification;

b. proof of current licensure in another state;

c. a completed disaster permit affidavit or application for special healthcare event temporary permit form;

d. a completed verification of employment for disaster or special healthcare event form; and

e. a collaborative practice agreement and required documents (advanced practice registered nurses).

D. A disaster relief or special healthcare event temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

E. The disaster relief permit will be valid for 60 days from the date of issuance and may be extended for additional 60-day periods as determined appropriate and necessary by the board provided all condition prerequisites to original issuances are satisfied.

F. The special healthcare event temporary permit will be valid during the dates(s) of the event and as approved by the board.

G. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the disaster relief permit shall be recalled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 919 and 920.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 33:460 (March 2007), amended LR 39:2280 (August 2013).

Barbara Morvant  
Executive Director

1308#033

## RULE

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

#### Abortion Facilities—Licensing Standards (LAC 48:I.4403, 4409, and 4415)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.4403, §4409, and §4415 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq., 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 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

#### **Chapter 44. Abortion Facilities**

#### **§4403. Licensing Requirements**

A. ...

1. An outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including DHH rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter related to abortion or abortion procedures.

B. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:705 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2281 (August 2013).

#### **§4409. Personnel**

A. - A.6. ...

B. Nursing Personnel

1. The outpatient abortion facility shall provide nursing services.

2. The nursing services shall be provided under the direction of a registered nurse.

3. There shall be a plan of administrative authority with delineation of responsibilities and duties for each category of nursing personnel.

4. The number of nursing personnel on duty shall be sufficient to meet the needs of the patient(s) in the facility. An outpatient abortion facility shall have at least one licensed nurse on duty at all times when there is a patient in the facility who is receiving or recovering from an abortion.

5. All nurses employed by the facility shall have a current and valid Louisiana nursing license as a registered nurse (RN) or licensed practical nurse (LPN), as appropriate. The facility shall verify and maintain documentation of the nursing license in the personnel file.

6. All licensed nurses shall have current documentation in their personnel file of successfully completing a basic life support course.

7. Nursing care policies and procedures shall be in writing and be consistent with accepted nursing standards. Policies shall be developed for all nursing service procedures provided at the facility. The procedures shall be reviewed at least annually and revised as necessary.

8. A formalized program of in-service training and evaluation for competency shall be developed for all categories of nursing personnel and for all nursing services provided at the facility. Training related to required job skills shall be provided to nursing personnel. The facility shall maintain documentation of the training provided and evaluation for competency in the personnel file.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:707 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2281 (August 2013).

#### **§4415. Patient Records and Reports**

A. - A.1. ...

2. The department is entitled to access all books, records, or other documents maintained by or on behalf of the facility on the licensed premises to the extent necessary to ensure compliance with this Chapter 44. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the department as necessary to determine or verify compliance with this Chapter.

A.3 - E.2.c. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:708 (May 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2281 (August 2013).

Kathy H. Kliebert  
Secretary

1308#094

#### **RULE**

#### **Department of Public Safety and Corrections Corrections Services**

#### **Offender Mail and Publications (LAC 22:I.313)**

In Accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 313, Offender Mail and Publications.

#### **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part I. Corrections**

#### **Chapter 3. Adult Services**

#### **Subchapter A. General**

#### **§313. Offender Mail and Publications**

A. - H.6. ...

I. Procedures for Death Row Offenders Correspondence

1. Pursuant to the provisions of Act No. 799 of the 2012 Regular Session, the following procedures provide for the review and inspection of incoming and outgoing correspondence of death row offenders to ensure no contractual arrangements are being contemplated or in effect that would allow the offender to profit from his crimes of notoriety.

a. All incoming and outgoing general correspondence, including packages, shall be inspected.

b. Incoming and outgoing privileged mail shall be inspected outside the offender's presence when there is reasonable suspicion that contraband is being sent to the offender or from the offender, or the offender is contemplating a contractual arrangement that would result in

his receiving any type of profits or proceeds relative to his criminal acts. The warden or deputy warden shall authorize such inspection.

c. In the event it is determined that the offender is contemplating or has established a contractual arrangement, the information shall be immediately reported by the warden to the secretary who shall notify the attorney general's office pursuant to established procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5<sup>th</sup> Cir.1978).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 33:851 (May 2007), LR 38:830 (March 2012), LR 39:2281 (August 2013).

James M. LeBlanc  
Secretary

1308#027

## RULE

### Department of Transportation and Development Professional Engineering and Land Surveying Board

#### Examinations

(LAC 46:LXI.1301, 1303, 1307, 1313, 1315, and 1701)

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.1301, 1303, 1307, 1313, 1315, and 1701.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LXI. Professional Engineers and Land Surveyors Chapter 13. Examinations

##### §1301. General

A.1. Only individuals who have received permission from the National Council of Examiners for Engineering and Surveying (NCEES) will be allowed to take the fundamentals of engineering and fundamentals of land surveying examinations, and all applications for these examinations must be timely filed with NCEES.

2. Only individuals of good character and reputation who have received permission from the board will be allowed to take the principles and practice of engineering, principles and practice of land surveying and Louisiana laws of land surveying examinations, and all applications for these examinations must be timely filed with the board.

B. ...

C.1. Timely filing of an application with the board or NCEES does not assure that an applicant will be permitted to take an examination, or be scheduled for examination on a particular date.

2. To be considered for a specific examination date, the application for the following examinations should be received by NCEES no later than the date specified by NCEES:

- a. fundamentals of engineering; and
- b. fundamentals of land surveying.

3. To be considered for a specific examination date, the application for the following examinations should be received at the board office no later than December 1 for the April examination administration and June 1 for the October examination administration:

- a. principles and practice of engineering;
- b. principles and practice of land surveying; and
- c. Louisiana laws of land surveying.

D. Examinations in the fundamentals of engineering, fundamentals of land surveying, the principles and practice of engineering, the principles and practice of land surveying and the Louisiana laws of land surveying will be offered at times and places designated by the board or NCEES. Descriptions of typical content of the examinations will be made available to applicants through NCEES.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 35:1909 (September 2009), LR 37:2413 (August 2011), repromulgated 37:2752 (September 2011), amended LR 38:2565 (October 2012), LR 39:2282 (August 2013).

##### §1303. Waiver of the Fundamentals of Engineering Examination

A. The board may waive the fundamentals of engineering examination for any applicant who has an earned doctoral degree in engineering from a college or university having an undergraduate accredited engineering curriculum.

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 4:88 (March 1978), amended LR 5:113 (May 1979), LR 6:735 (December 1980), LR 7:647 (December 1981), LR 10:805 (October 1984), LR 14:449 (July 1988), LR 17:804 (August 1991), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 32:1620 (September 2006), LR 39:2282 (August 2013).

##### §1307. Approval to Take the Fundamentals of Land Surveying Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1715 (August 2004), repealed LR 39:2282 (August 2013).

##### §1313. Examination Results

A. The board or the National Council of Examiners for Engineering and Surveying (NCEES) will specify the



minimum passing score for all examinations for certification or licensure of applicants.

B. Applicants will be informed only as to whether they passed or failed an examination. Numerical grades are not available to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:114 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 39:2282 (August 2013).

### **§1315. Re-Examinations**

A. ...

B. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions for the third time, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles. If an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions five or more times, following each successive failed examination, he/she is not eligible to apply to retake the examination for the next two consecutive test cycles and must successfully complete a review course approved by the board prior to reapplying. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions for the tenth time, he/she is no longer eligible to retake the examination.

C. Before an applicant is given approval to retake a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination, he/she may be required to appear before the board, or a committee of the board, for an oral interview/oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:1909 (September 2009), LR 36:1034 (May 2010), LR 39:2283 (August 2013).

## **Chapter 17. Applications and Fees**

### **§1701. Applications**

A. - D. ...

E. An application for licensure may be considered incomplete by the board. The applicant may be denied admission to an examination until the information submitted in the application has been investigated and replies have been received from references. The board may require additional information and documents it considers necessary for the proper evaluation of an application.

F. An application requiring an examination for certification or licensure must be timely filed with the board or NCEES, as discussed in §1301.

G. Applicant files may be destroyed at the discretion of the executive director no earlier than five years after original submission of the application.

H. Applications for licensure of an engineering firm and/or land surveying firm must be typed on the form provided by the board, must be completed in their entirety, and must contain the name, license number, and signature of all Louisiana professional engineers and/or professional land surveyors designated as supervising professionals in accordance with Chapter 23 (Firms). The name and signature of an officer of the firm duly authorized to make certifications on behalf of the firm must appear in the specified location of the form. If the applicant is a corporation, a copy of the corporation's Louisiana certificate of incorporation (domestic) or certificate of authority (foreign) must accompany the application. If the applicant is a limited liability company, a copy of the company's Louisiana certificate of organization (domestic) or certificate of authority (foreign) must accompany the application. The board will license firms that are corporations using only the name as reflected on the corporation's certificate of authority or the certificate of incorporation. The board will license firms that are limited liability companies using only the name as reflected on the company's certificate of authority or the certificate of organization. Designated supervising professionals for the firm must also successfully complete a Louisiana laws and rules examination prior to licensure of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:112 (May 1979), amended LR 5:365 (November 1979), LR 7:646 (December 1981), LR 11:362 (April 1985), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1032 (July 2001), LR 30:1717 (August 2004), LR 37:2414 (August 2011), LR 38:2565 (October 2012), LR 39:2283 (August 2013).

Donna D. Sentell  
Executive Director

1308#038

### **RULE**

#### **Department of Treasury Board of Trustees of the Registrars of Voters Employees' Retirement System**

Internal Revenue Code Provisions (LAC 58:XVII.Chapter 2)

In accordance with R.S. 49:950 et seq. of the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Registrars of Voters Employees' Retirement System adopted Chapter 2 of Part XVII, included in Title 58, Retirement, of the Louisiana Administrative Code. This Rule has been adopted pursuant to newly enacted R.S. 11:2093 (Acts 2012, No. 229), the effective date of enactment of which will be the formal adoption of these rules. Newly enacted R.S. 11:2093 provides that rules and

regulations be adopted which will assure that the Registrars of Voters Employees' Retirement System will remain a tax-qualified retirement plan under the United States *Internal Revenue Code* and the regulations thereunder.

#### **Title 58**

#### **RETIREMENT**

#### **Part XVII. Registrars of Voters**

#### **Employees' Retirement System**

#### **Chapter 2. Internal Revenue Code Provisions**

#### **§201. Limitation on Benefits**

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B. The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the income tax regulations.

E. The limitations of this chapter shall be determined and applied taking into account the rules in Section G.

#### **F. Definitions**

*Annual Benefit*—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and

with regard to section 1.415(b)-1(b)(1)(iii)(B) and (C) of the income tax regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this chapter applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the annual benefit shall take into account social security supplements described in Section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Section 1.411(d)-4, Q and A-3(c), of the income tax regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §201.F.1.b. or F.1.c.

b. Benefit Forms Not Subject to Section 417(e)(3)

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph F.1.b, if the form of the member's benefit is either:

(a) a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse); or

(b) an annuity that decreases during the life of the member merely because of:

(i) the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii) the cessation or reduction of Social Security supplements or qualified disability payments [as defined in Section 401(a)(11)].

ii. Limitation years beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation years beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to Section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is other than a benefit form described in §201.F.1.b. In this case, the actuarially equivalent straight life annuity shall be determined as follows.

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5.5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan

year beginning in 2004 and before December 31, 2004, the application of this §201.F.1.c. shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form;

(ii). the applicable interest rate and the applicable mortality table; and

(iii). the applicable interest rate (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

*Applicable Interest Rate*—the rate of interest on 30 year Treasury securities (or any subsequent rate used under Section 417(e) of the *Internal Revenue Code*) as specified by the Internal revenue service for the lookback month. The lookback month applicable to the stability period is the second calendar month preceding the first day of the stability period. The stability period is the plan year that contains the annuity starting date for the distribution and for which the applicable interest rate remains constant.

*Applicable Mortality Table*—the applicable mortality table within the meaning of Section 417(e)(3)(B) of the *Internal Revenue Code*.

*415 Safe-Harbor Compensation*—

a. *compensation*—wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Section 1.62-2(c) of the income tax regulations), and excluding the following:

i. employer contributions [other than elective contributions described in Section 402(e)(3), Section 408(k)(6), Section 408(p)(2)(A)(i), or Section 457(b)] to a plan of deferred compensation (including a simplified employee pension described in Section 408(k) or a simple retirement account described in Section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified);

ii. amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in Section 1.421-1(b) of the income tax regulations), or when restricted stock (or property) held by the member either becomes freely

transferable or is no longer subject to a substantial risk of forfeiture;

iii. amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv. other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in Section 125);

v. other items of remuneration that are similar to any of the items listed in Clauses i through iv above.

b. For any self-employed individual, compensation shall mean earned income.

c. Except as provided herein, for limitation years beginning after December 31, 1991, compensation for a limitation year is the compensation actually paid or made available during such limitation year.

d. For limitation years beginning on or after July 1, 2007, compensation for a limitation year shall also include compensation paid by the later of 2 1/2 months after an member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

e. Any payments not described above shall not be considered compensation if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

f. For limitation years beginning after December 31, 1997, compensation paid or made available during such limitation year shall include amounts that would otherwise be included in compensation but for an election under Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

g. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Section 132(f)(4).

*Defined Benefit Compensation Limitation*—100 percent of a member's high three-year average compensation,

payable in the form of a straight life annuity. In the case of a member who is rehired after a severance from employment, the defined benefit compensation limitation is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §201.G.

*Defined Benefit Dollar Limitation*—effective for limitation years ending after December 31, 2001, the defined benefit dollar limitation is \$160,000, automatically adjusted under Section 415(d) of the *Internal Revenue Code*, effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

*Employer*—for purposes of this chapter, employer shall mean the employer that adopts this plan, and all members of a controlled group of corporations, as defined in Section 414(b) of the *Internal Revenue Code*, as modified by Section 415(h), all commonly controlled trades or businesses [as defined in Section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by Section 415(h)], or affiliated service groups [as defined in Section 414(m)] of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to Section 414(o) of the *Internal Revenue Code*.

*Formerly Affiliated Plan of the Employer*—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose, cessation of affiliation means the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in Section 414(b) of the *Internal Revenue Code*, as modified by Section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

*High Three-Year Average Compensation*—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. In the case of a member who is rehired by the employer after a severance from employment, the member's high three-year average compensation shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's compensation for a year of service shall not include compensation in excess of the limitation under Section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

*Limitation Year*—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same limitation year. If the limitation year is amended to a

different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made.

*Maximum Permissible Benefit*—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a Member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and

the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5-percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning Before July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date

that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §201.F.11.b.ii.(b).(i). and the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

iii. Notwithstanding the other requirements of this Subparagraph F.10.b., no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the maximum permissible benefit if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed \$10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under Section 401(h), and accounts for postretirement medical benefits established under Section 419A(d)(1) are not considered a separate defined contribution plan).

*Predecessor Employer*—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a predecessor employer with respect to the member in the plan. A former entity that antedates the employer is also a predecessor employer with respect to a member if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

*Severance from Employment*—an employee has a severance from employment when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a severance from employment if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

*Year of Participation*—the member shall be credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of Section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a member to receive a year of participation (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than one Year of Participation be credited for any 12-month period.

*Year of Service*—for purposes of Section 201.G., the member shall be credited with a year of service (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into

account only service with the employer or a predecessor employer.

#### G. Other Rules

1. Benefits under Terminated Plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the Member under the terminated plan.

2. Benefits Transferred from the Plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant Section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer of distributable benefits pursuant Section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant Section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. Formerly Affiliated Plans of the Employer. A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. Plans of a Predecessor Employer. If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to

the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provided under the plan of the predecessor employer.

5. Special Rules. The limitations of this chapter shall be determined and applied taking into account the rules in Section 1.415(f)-1(d), (e) and (h) of the income tax regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2284 (August 2013).

#### §202. Required Minimum Distributions

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

- a. the member's life;
- b. if the member is married, the life of the member's designated beneficiary;
- c. the member's life expectancy;
- d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph:

*Spouse*—that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 years and six months. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* Section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:2077 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G. Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* Section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2289 (August 2013).

### **§203. Direct Rollovers**

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an "eligible rollover distribution", as specified by the distributee, paid directly to an "eligible retirement plan", as those terms are defined below.

B. The following definitions shall apply.

*Direct Rollover*—a payment by the system to the eligible retirement plan specified by the distributee.

*Distributee*—shall include:

- a. a member or former member;

- b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

- c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of *eligible retirement plan* in this Section.

*Eligible Retirement Plan*—any of the following:

- a. an individual retirement account described in Section 408(a) of the *Internal Revenue Code*;

- b. an individual retirement annuity described in Section 408(b) of the *Internal Revenue Code*;

- c. an annuity plan described in Section 403(a) of the *Internal Revenue Code*;

- d. a qualified trust as described in Section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

- e. an eligible deferred compensation plan described in Section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

- f. an annuity contract described in Section 403(b) of the *Internal Revenue Code*.

*Eligible Rollover Distribution*—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

- a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

- b. any distribution to the extent that such distribution is required under Section 401(a)(9) of the United States *Internal Revenue Code*; and

- c. any distribution which is made upon hardship of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2290 (August 2013).

### **§204. Annual Compensation Limitation**

A. Unless otherwise provided in this Chapter, the accrued benefit of each Section 401(a)(17) employee as that term is defined below shall be the greater of the following:

1. the employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals;

2. the sum of:

- a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of Section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the Code of Federal Regulations;

- b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years



of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. *A Section 401(a)(17) Employee*—any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded \$150,000.

C. If an employee is not a Section 401(a)(17) employee, his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of Section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2290 (August 2013).

**§205. General**

A. The assets of this system's pension plan shall be held for the exclusive benefit of the employees who are or become participating members of the system and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries. No part of the corpus, the system's pension plan assets held in trust, or income of the system's pension plan shall be used for or diverted to purposes other than the exclusive benefit of such members and retirees, or their survivors or beneficiaries, whether by operation or natural termination of the system's pension plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

B. The retirement benefit earned by a member shall be fully vested and nonforfeitable no later than the date he becomes eligible to retire. Benefits of affected members shall also become vested and nonforfeitable to the extent funded, upon the termination or partial termination of the system's pension plan or the complete discontinuance of contributions thereto.

C. Forfeitures resulting from a termination of employment or a withdrawal of a member's own contributions may not be used to increase benefits to remaining members. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2291 (August 2013).

Lorraine C. Dees  
Director

1308#025

**RULE**

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

Alligator Regulations (LAC 76:V.701)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has amended rules for use of snares and the rules relative to alligator regulations.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 7. Alligators**

**§701. Alligator Regulations**

A. - A.4.a.i.(n). ...

ii. All license types prescribed above except nongame quadruped exhibitor and breeder and resident and nonresident alligator hunter expire annually on June 30. Nongame quadruped exhibitor and breeder and resident and nonresident alligator hunter licenses expire annually on December 31.

4.b. - 17.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263, and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 35:690 (April 2009), LR 37:2421 (August 2011), LR 39:2291 (August 2013).

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate a Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Ronald Graham  
Chairman

1308#043

**RULE**

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

Deer Management Assistance Program (LAC 76:V.111)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has amended regulations for the Deer Management Assistance Program.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§111. Rules and Regulations for Participation in the Deer Management Assistance Program**

A. - A.1.c. ...

d. Fee schedule:

i. tier 1—fee dependent on acreage:

- (a). 1,000-1,500 acres—\$250;
- (b). 1,501-10,000 acres—\$300;
- (c). 10,001-20,000 acres—\$500;
- (d). 20,001-50,000 acres—\$1,500;
- (e). 50,001-75,000 acres—\$2,500;
- (f). >75,000 acres—\$3,750 minimum, to be

negotiated;

ii. tier 2—fee dependent on acreage:

- (a). 500-1,500 acres—\$150;
- (b). 1,501-10,000 acres—\$200;
- (c). 10,001-20,000 acres—\$500;
- (d). 20,001-50,000 acres—\$1,500;
- (e). 50,001-75,000 acres—\$2,500;
- (f). >75,000 acres—\$3,750 minimum, to be

negotiated;

iii. tier 3—fee dependent on acreage:

- (a). 40-500 acres—\$100;
- (b). 501-1,500 acres—\$150;
- (c). 1,501-10,000 acres—\$200;
- (d). 10,001-20,000 acres—\$500;
- (e). 20,001-50,000 acres—\$1,500;
- (f). 50,001-75,000 acres—\$2,500;
- (g). >75,000 acres—\$3,750 minimum, to be

negotiated;

iv. Tier 4—no acreage minimum, no fee.

A.1.e. - B.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:110.1 and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008), LR 35:1910 (September 2009), LR 39:2292 (August 2013).

Ronald Graham  
Chairman

1308#044

**RULE**

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

**General and Wildlife Management Area Hunting  
(LAC 76:XIX.111)**

The Wildlife and Fisheries Commission has amended the rules and regulations governing the hunting of resident game birds and game quadrupeds.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§111. General and Wildlife Management Area Hunting Rules and Regulations**

A. Hunting Seasons and Wildlife Management Area (WMA) Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by Sections 115 and 116 of Title 56 of the *Louisiana Revised Statutes* of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The Secretary of the Department of Wildlife and Fisheries (LDWF) has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to Section 40.1 of Title 56 of the Louisiana Revised Statutes of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the LDWF a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to separate pamphlet.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 caliber or smaller rimfire firearm. A licensed hunter may take raccoon or opossum with .22 caliber or smaller firearm, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. Except nutria may be taken on Atchafalaya Delta, Salvador/Timken, Pointe Aux Chenes and Pass a Loutre

WMAs from September 1 to March 31. When taken with a shotgun, steel shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

5. Pheasant—open concurrently with the quail season; no limit.

6. Falconry—special permit required. Resident and migratory game species may be taken, except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific falconry rules.

7. Licensed Hunting Preserve—October 1-April 30. Pen-raised birds only; no limit entire season. Refer to LAC 76:V.305 for specific hunting preserve rules.

8. Deer Management Assistance Program (DMAP). Refer to LAC 76:V.111 for specific DMAP rules. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with approved archery equipment or primitive firearms). Antlerless deer harvested on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Failure to do so is a violation of R.S. 56:115. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved. DMAP participants must follow the deer season schedule established for their respective areas.

9. Farm Raised White-Tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

*Exotics*—for purposes of this Section means any animal of the family Bovidae (except the Tribe Bovini [cattle]) or Cervidae which is not indigenous to Louisiana and which is confined on a Supplemented Hunting Preserve. Exotics shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

*Hunting*—in its different tenses and for purposes of this Section means to take or attempt to take, in accordance with R.S. 56:8.

*Same as Outside*—for purposes of this Section means hunting on a Supplemented Hunting Preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in Title 56 of the Louisiana Revised Statutes and as established annually by the Wildlife and Fisheries Commission.

*Supplemented Hunting Preserve*—for purposes of this Section means any enclosure for which a current Farm-Raising License has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

*White-Tailed Deer*—For purposes of this rule means any animal of the species *Odocoileus virginianus* which is confined on a Supplemented Hunting Preserve.

b. Seasons

i. Farm-Raised White-Tailed Deer: consult the regulations pamphlet.

ii. Exotics: year round.

c. Methods of Take

i. White-Tailed Deer: same as outside.

ii. Exotics: Exotics may be taken with longbow (including compound bow and crossbow) and arrow; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including sabot bullets only and other approved primitive firearms.

d. Shooting Hours

i. White-Tailed Deer: same as outside.

ii. Exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag Limit

i. Farm-Raised White-Tailed Deer: same as outside.

ii. Exotics: No limit.

f. Hunting Licenses

i. White-Tailed Deer: same as outside.

ii. Exotics: No person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-Tailed Deer and Exotics: Each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from

the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned, state WMAs, and the Bayou des Ourses, Bodcau, Bonnet Carre, Indian Bayou, Loggy Bayou and Soda Lake tracts owned by the Corps of Engineers but does not apply to state wildlife refuges, or other federally owned refuges and lands. On state WMAs, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

#### D. Hunting-General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969, shall hunt unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course approved by the department, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person under sixteen years of age may hunt without such certificate if he/she is accompanied by and is under the direct supervision of a person who was born before September 1, 1969, and has a valid hunting license or who is eighteen years of age or older and has proof of successful completion of a firearm and hunter education course approved by the department.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

#### 5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a longbow (including compound bow and crossbow) and arrow or a shotgun not larger than a 10 gauge fired from the shoulder without a rest shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than a .22

caliber rimfire or a primitive firearm larger than .36 caliber. It shall be legal to hunt or take squirrels, rabbits, and outlaw quadrupeds with air rifles. During closed deer gun season, it shall be illegal to possess shotgun shells loaded with slugs or shot larger than BB lead or F steel shot while small game hunting.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

d. No person shall take or kill any game bird or wild quadruped with a firearm fitted with any device to deaden or silence the sound of the discharge thereof; or fitted with an infrared sight, laser sight, or except as provided in R.S. 56:116(A)(8) any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target, or device specifically designed to enhance vision at night [R.S. 56:116.1.B(3)].

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. For specific details contact a region office near you. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found destroying commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30 days from the date of issuance. Contact the local region office for details.

7. Threatened and Endangered Species: Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Attwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Outlaw Quadrupeds. Holders of a legal hunting license may take coyotes, feral hogs where legal, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only season for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season.

Remainder of the year "chase only" allowed by licensed hunters.

9. Nighttime take of nuisance animals and outlaw quadrupeds. On private property, the landowner, or his lessee or agent with written permission and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices. In addition, pursuant to R.S. 56:116(D)(3) any person who is authorized to possess a firearm suppressor may use a firearm fitted with a sound suppressor when taking outlaw quadrupeds, nutria, or beaver. Any person attempting to take outlaw quadrupeds under the provisions of the paragraph, within 24 hours prior to the attempted taking, shall notify the sheriff of the parish in which the property is located of his intention to attempt to take outlaw quadrupeds under the provision of this paragraph.

10. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game quadrupeds or game birds with a gun during open season while on a public highway or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and rights-of-way is prohibited and these provisions will be strictly enforced.

11. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

12. Sex Identification. Positive evidence of sex identification, including the head or sex organs, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

#### E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license.

Within seven days the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation web site.

2. 2013-2014 Season. One antlered and one antlerless deer per day (when legal) except on National Forest Lands, Catahoula and Red Dirt National Wildlife Management Preserves within Kisatchie National Forest, and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, not to exceed three antlered deer or four antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in West Carroll Parish, and except Deer Areas 4, 7, 9, and 10 as specified in deer hunting schedule. Consult deer hunting schedule in the regulations pamphlet for either-sex days for these parishes and areas. This does not apply to public lands (WMAs, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

3. 2014-15 Season. One antlered and one antlerless deer per day (when legal) except on National Forest Lands, Catahoula and Red Dirt National Wildlife Management Preserves within Kisatchie National Forest, and some Federal Refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, not to exceed three antlered deer or four antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all segments included) except in West Carroll Parish and except Deer Areas 4, 7, 9, and 10 as specified in deer hunting schedule. Consult deer hunting schedule in the regulations pamphlet for either-sex days for these parishes and areas. This does not apply to public lands (WMAs, National Forest Lands, and Federal Refuges) which will have specified either-sex days.

4. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin, except on Alexander State Forest WMA, Bayou Macon WMA, Big Lake WMA, Bodcau WMA, Boeuf WMA, Buckhorn WMA, Dewey Wills WMA, Jackson-Bienville WMA, Loggy Bayou WMA, Ouachita WMA, Pearl River WMA, Pomme de Terre WMA, Red River WMA, Russell Sage WMA, Sicily Island Hills WMA, Spring Bayou WMA, Three Rivers WMA and Union WMA during the Experimental Quality Deer Season (See the specific WMA schedule for more information). A legal antlered deer during the Experimental Quality Deer Season shall be defined as a deer with at least four points on one side. To be counted as a point, a projection must be at least one inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point. Killing antlerless deer is prohibited except where specifically allowed.

5. Either-sex deer is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or rifled slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this paragraph shall not apply to any person who has lost one or more limbs.

10. Areas not specifically designated as open are closed.

11. Primitive Firearms Segment: (Special license and primitive firearms specifications apply only to the special state, WMA, National Forest and Preserves, and Federal Refuge seasons.) Still hunt only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license is required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except as specified on public areas. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Primitive Firearms For Special Season: Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, use black powder or approved substitute only, take ball or bullet projectile only, including sabot bullets and may be fitted with magnified scopes. This includes muzzleloaders known as "inline" muzzleloaders.

b. Single shot, breech loading rifles, .38 .35 caliber or larger, or of a commission approved caliber having an exposed hammer that use metallic cartridges loaded either with black powder or modern smokeless powder and may be fitted with magnified scopes.

c. Single shot, breech loading shotguns, 10 gauge or smaller, having an exposed hammer, loaded with buckshot or rifled slug.

d. Special Youth Deer Season on Private Land (either-sex): youths 17 or younger may hunt deer with any legal weapon during the Primitive Firearms Season in each deer hunting area.

12. Archery Segment: Consult regulations pamphlet. WMA seasons are the same as outside except as noted below. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in Area 6 from October 1-15. Archer's must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at anytime during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations: Longbow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to carry a gun, including those powered by air or other means, while hunting with bow and arrow during the special bow and arrow deer season except it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot) only;

(b). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips;

(c). to hunt deer with a bow having a pull less than 30 pounds;

(d). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1.B.(4)].

13. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange". Persons hunting on privately owned, legally posted land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned and legally posted or to archery deer hunters hunting on legally posted lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons

hunting other game or engaged in activities not requiring "hunter orange".

14. Special Physically Challenged either-sex deer season on private land: 1<sup>st</sup> Saturday of October for 2 days. Restricted to individuals with Physically Challenged Hunter Permit.

15. Special Youth Deer Hunt on Private Lands (Either-Sex). Areas 1, 4, 5, 6 and 9 - last Saturday of October for 7 days; Area 2 - 2<sup>nd</sup> Saturday of October for 7 days; and Areas 3, 7, 8 and 10 - 4<sup>th</sup> Saturday of September for 7 days. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. In addition,

F. Description of Areas, 2013-2015

1. Area 1

a. All of the following parishes are open: Concordia, East Carroll, Franklin, Madison, Richland, Tensas.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to Parish line.

ii. Grant—east of US 165 and south of LA 8.

iii. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to Parish line.

iv. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake.

v. Rapides—east of US 165 and north of Red River.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek.

ii. East Carroll—all.

iii. Franklin—all.

iv. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake.

v. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Brake.

vi. Richland—all.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as Area 2, except still hunting only for deer and except National Forest Land within the Evangeline Unit, Calcasieu Ranger District described in Area 2 description shall be still hunting only.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line;

ii. Avoyelles—that portion west of I-49;

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to Parish line;

iv. Evangeline—all except the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte;

v. Grant—all except that portion south of LA 8 and east of US 165;

vi. Jefferson Davis—north of US 190;

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to Parish line;

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake;

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse Parish line at Wham Brake;

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest. (See Kisatchie National Forest Regulations);

ii. Ouachita—east of Ouachita River;

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek Exit, west of I-49 southward to Parish Line, north of Parish Line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches Parish line;

iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides Parish line.

3. Area 3

a. Portions of the following parishes are open:

- i. Acadia—north of I-10;
- ii. Allen—south of US 190 and west of LA 113;
- iii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;
- iv. Calcasieu—east of LA 27 from Sulphur northward to the parish line, and north of I-10;
- v. Jefferson Davis—north of I-10 and south of US 190;
- vi. Lafayette—west of I-49 and north of I-10.
- vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line.
- viii. St. Landry—west of US 167.
- ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

4. Area 4

a. All of St. Helena and Washington Parishes are open.

b. Portions of the following parishes are also open:

- i. East Baton Rouge—all except that portion north of I-110 and west of US 61;
- ii. East Feliciana—east of US 61;
- iii. West Feliciana—east of US 61;
- iv. Livingston—north of I-12;
- v. Tangipahoa—north of I-12;
- vi. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

c. Still hunting only in all or portions of the following parishes:

- i. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to

Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67;

ii. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier;

iii. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10;

iv. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25;

v. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

5. Area 5

a. All of West Carroll Parish is open.

6. Area 6

a. All of Point Coupee Parish is open.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49;

ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte;

iii. Lafayette—north of I-10 and east of I-49;

iv. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

v. St. Landry—east of US 167;

vi. St. Martin—north of I-10;

vii. East Baton Rouge—north of I-110 and west of US 61;

xiii. West Feliciana—west of US 61;

ix. East Feliciana—west of US 61;

x. West Baton Rouge—north I-10.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from



Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport;

ii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

iii. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia—south of LA 14 and west of US 90.

ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde.

8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line;

ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;

iii. Calcasieu—that portion west of LA 27 from the parish line southward to Sulphur and north of I-10 from Sulphur to the Texas state line;

iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

9. Area 9

a. All of the following parishes are open: Ascension, Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John, Terrebonne

b. Portions of the following parishes are open:

i. Iberia—east of US 90;

ii. Iberville—south of I-10, west of the Atchafalaya Basin Protection levee, then south of Upper Grand River to the Intracoastal Canal at Jack Miller, then south of Hwy 75;

iii. Lafayette—south of I-10 and east of US 90;

iv. Livingston—south of I-12;

v. St. Martin—south of I-10.

vi. St. Mary—north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River southward to Bayou Shaffer, north of Bayou Shaffer to Bateman Lake, north and west of Bayou Chene from Bateman Lake to Lake Palourde;

vii. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

viii. Tangipahoa—south of I-12;

ix. High Water Benchmark Closure. Deer hunting in those portions of Iberia, Iberville, St. Martin, and St. Mary parishes south of I-10, west of the East Guide Levee, east of the West Guide Levee, and north of US 90 will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose.

c. Still hunting only in all or portions of the following parishes:

i. Plaquemines—east of the Mississippi River;

ii. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;

iii. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac.

10. Area 10

a. All of Cameron and Vermillion Parishes are open.

b. Portions of the following parishes are open:

i. Acadia—south of I-10;

ii. Calcasieu—south of I-10;

iii. Iberia—west of US 90 and north of LA 14;

iv. Jefferson Davis—south of I-10;

v. Lafayette—south of I-10 and west of Hwy 90.

G. WMA Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF Secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4:00 a.m. unless otherwise specified. Hunters must check out and exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited to acorn and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to 5 gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh prohibited.

j. Nature trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and state seed grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

## 2. Permits

a. A WMA Hunting Permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A Self-Clearing Permit is required for all activities (hunting, fishing, hiking, birdwatching, sightseeing, etc.) on WMAs unless otherwise specified. The Self-Clearing Permit will consist of two portions: check in, check out. On WMAs where self-clearing permits are required, all persons must obtain a WMA self-clearing permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. (Self-clearing permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.)

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a Self-Clearing WMA permit, detailed above, may be required (available at most entrances

to each WMA). Check individual WMA listings for exceptions.

## 3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon, hogs and opossum may be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a physically challenged hunter permit on WMAs during the dates specified under the individual WMA. Participants must possess a physically challenged hunter permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering physically challenged seasons.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations

pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division Office for more details.

h. Trapping. Consult Annual Trapping Regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs.

*Nighttime Experimental*—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

#### 4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, UTVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping and except as allowed pursuant to R.S. 56:109.C and R.S. 56:1691. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in compliance with POST requirements, Federal Law Enforcement Officers and holders of Louisiana concealed handgun permits or permit holders from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists EXCEPT as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. Centerfire rifles and handguns larger than .22 caliber rimfire, shotgun slugs or shot larger than BB lead or F steel shot cannot be carried onto any WMA except during modern firearm deer season and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations).

f. Target shooting and other forms of practice shooting are prohibited on WMAs EXCEPT as otherwise specified.

g. Discharging of firearms on or hunting from designated roads, ATV/UTV trails and their rights-of-way is

prohibited during the modern firearm and muzzleloader deer season.

#### 5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drives and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day, not to exceed three antlered deer or four antlerless deer per season (all segments included) by all methods of take.

c. Baiting or hunting over bait is prohibited on all WMAs (hogs included).

d. Deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Portable deer stands (those that are designed to be routinely carried by one person) may not be left on WMAs unless the stands are removed from trees, placed flat on the ground, and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and LDWF i.d. number. No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer or hog hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc., found unattended in a hunting position, not placed flat on the ground, or untagged will be confiscated and disposed of by the LDWF. LDWF is not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: Special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for physically challenged hunter permit (PCHP) wheelchair confined hunters on WMAs. Hunters must obtain a PCHP permit and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson-Bienville, Ouachita,

and Sherburne WMAs. Check WMA hunting schedules or call the LDWF Field Offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles, high tension power lines, oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display "hunter orange". Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of hunter orange and wear a "hunter orange" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "hunter orange" above or around their blinds which is visible from 360 degrees.

p. Archery season for deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or physically challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms season for deer. Either-sex unless otherwise specified. See WMA deer schedule. Except youths 17 or younger may use any legal weapon during the primitive firearm season.

## 6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. Houseboats shall not impede navigation. At the end of the 16 day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities.

b. Houseboats are prohibited from overnight mooring within WMAs EXCEPT on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. On Atchafalaya Delta WMA houseboats may be moored in specially designated areas throughout the hunting season. At all other times of the year, mooring is limited to a period not to exceed 16 consecutive days. Permits are required for the mooring of houseboats on Atchafalaya Delta WMAs. Permits must be obtained from the New Iberia office.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving. Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Trash must be contained at all times while camping.

h. No burning trash.

i. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

j. Swimming is prohibited within 100 yards of boat launching ramps.

## 7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog

hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

#### 9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 25 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 7 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. Utility Type Vehicle (UTV, also utility terrain vehicle) is defined as any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on four or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination radius of 17 inches or more measured from the center of the hub and horizontal to ground are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs R1, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and Refuges. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. Personal water craft allowed on designated areas of Alexander State Forest WMA. Except, Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Catahoula Lake, Manchac WMA, Maurepas Swamp WMA,

Pearl River WMA and Pointe-aux-Chenes WMA from April 1 until the Monday of Labor Day weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only. ATVs are restricted to marked ATV trails only, except when WMA roads are closed to LMVs, ATVs may then use those roads when allowed. WMA maps are available at all LDWF Field offices. This restriction does not apply to bicycles.

NOTE: Only ATV and UTV trails marked with signs and/or paint, and depicted on WMA maps are open for use.

j. Use of special ATV trails for physically challenged persons is restricted to ATV physically challenged permittees. Physically challenged ATV permittees are restricted to physically challenged ATV trails or other ATV trails only as indicated on WMA maps or as marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special physically challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Physically challenged persons under the age of 60 must apply for and obtain a physically challenged hunter program permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to physically challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4:00 AM, EXCEPT raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution: Many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads, unless specific signage otherwise allows or restricts.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite, Sherburne, Atchafalaya Delta, Pass-a-Loutre,

Pointe-aux-Chenes, Salvador, Timken, Lake Boeuf, and Biloxi WMAs under the following conditions:

- i. no firearms or archery equipment is in possession of the retrieval party or on the ATV;
- ii. the retrieval party may consist of no more than one ATV and one helper;
- iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located;
- iv. UTV's may not be used to retrieve downed deer or hogs.

#### 10. Commercial Activities

a. Hunting Guides/Outfitters: No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the Secretary of the LDWF.

c. Commercial fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited EXCEPT experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Three Rivers WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (See WMA schedule) and except non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: 1<sup>st</sup> Saturday of May for 9 days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Attakapas, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, and

Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Feral hogs may be taken during any open hunting season, on WMAs by properly licensed and/or permitted hunters using only guns or bow and arrow legal for specified seasons in progress. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs during the month of February on Attakapas, Bodcau, Boeuf, Clear Creek, Dewey Wills, Jackson-Bienville, Little River, Pass a Loutre, Pearl River, Red River, Sabine, Sabine Island, Three Rivers, and West Bay WMAs by self-clearing permit. All hogs must be killed immediately and may not be transported live under any conditions, except as allowed by permit from either the Minden, Lake Charles, Monroe, Pineville, Hammond or Opelousas offices, and hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs from February 16 through March 31 with shotguns loaded with buckshot or slugs or rimfire rifles no larger than .22 caliber. Additional requirements may be specified under individual WMAs, see regulation pamphlet.

a. Experimental trapping of feral hogs will be allowed by permit only on Boeuf, Clear Creek, Jackson-Bienville, Manchac, Pearl River, Red River, Sherburne, Thistlethwaite, Three Rivers, and West Bay WMAs. No live take will be allowed. Permit available through pre-application lottery. Contact LDWF Field Office.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

#### 17. WMAs Hunting Schedule and Regulations

a. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call 318-487-5172 or 318-487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires EXCEPT in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of the LDWF at any time. All All Terrain vehicles, motorcycles, horses, and mules prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Limited access area, no internal combustion engines allowed from

September through January. See WMA map for specific locations.

c. Bayou Macon. All night activities prohibited except as otherwise provided.

d. Big Colewa Bayou. All nighttime activities prohibited.

e. Biloxi. All All Terrain Vehicles ATVs, UTVs, motorcycles, horses, and mules are prohibited. Mud Boats or air-cooled propulsion vessels powered by more than 36 total horsepower are prohibited on the WMA. All ATVs, UTVs, and motorcycles are prohibited.

f. Camp Beauregard. Daily military clearance required for all recreational users. Registration for use of self-clearing permit required once per year. All game harvested must be reported on self-clearing checkout permit. Retriever training allowed on selected portions of the WMA. Contact the LDWF Field Office for specific details. No hunting in restricted areas.

g. Dewey W. Wills. Crawfish: 100 pounds per person per day.

h. Elbow Slough. Steel shot only for all hunting. All motorized vehicles prohibited.

i. Elm Hall. No ATVs or UTVs allowed.

j. Fort Polk. Daily military clearance required to hunt or trap. Registration for use of self-clearing permit required once per year. New special regulations apply to ATV users.

k. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas Field Office. No hunting in restricted area.

l. Joyce. Swamp Walk: No loaded firearms or hunting allowed within 100 yards of walkways.

m. Lake Boeuf. Hunting allowed until 12:00 noon on all game. All nighttime activities prohibited. All Terrain vehicles, motorcycles, horses, and mules are prohibited.

n. Lake Ramsay. Foot traffic only—all vehicles restricted to Parish Roads.

o. Manchac. Crabs: No crab traps allowed. Attended lift nets are allowed.

p. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of Nature Trail.

q. Ouachita. Waterfowl Refuge: North of LA 15 closed to all hunting, fishing and trapping and ATV/UTV use during duck season including early teal season, except hunting allowed during Waterfowl Falconry Season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. All nighttime activities prohibited except as otherwise provided.

r. Pass-a-Loutre. Commercial Fishing: Same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. All ATVs, UTVs, motorcycles, horses, and mules prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines powered by more than 36 total

horsepower are prohibited on the WMA. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations.

s. Pearl River. All roads closed 8 p.m. to 4:00 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of Nature Trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated in the areas of Pearl River Wildlife Management Area, south of U.S. 90 from April 1 until the Monday of Labor Day Weekend, from sunrise to sunset only. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel. Crawfish: 100 pounds per person per day.

t. Peason Ridge. Daily military clearance required to hunt or trap. Registration for use of self-clearing permit required once per year. Special federal regulations apply to ATV users.

u. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: Gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having total horsepower above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue, Grand Bayou Blue, St. Louis Canal and Bayou Pointe-aux-Chenes unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations. All ATVs, UTVs, motorcycles, horses, and mules prohibited.

v. Pomme de Terre. Commercial Fishing: permitted Monday through Friday, except closed during duck season.

Commercial fishing permits available from area supervisor, Opelousas Field Office or Spring Bayou headquarters. Sport Fishing: Same as outside except allowed only after 2 p.m. only during waterfowl season. Crawfish: March 15 - July 31, recreational only, 100 lbs. per person per day.

w. Red River. Recreational Crawfishing: Yakey Farms only March 15-July 31. 100 pounds per person per day. No traps or nets left overnight. No motorized watercraft allowed.

x. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. All vehicles including ATVs prohibited.

y. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

z. Salvador/Timken. Hunting until 12 noon only for waterfowl. Recreational Fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Use of mudboats powered by internal combustion engines with more than four cylinders is prohibited. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations.

aa. Sandy Hollow. Bird Dog Training: Consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird Dog Field Trials: Permit required from Hammond Field Office. Horseback Riding: Self-Clearing Permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited.

bb. Sherburne. Crawfishing: Recreational crawfishing only on the South Farm Complexes. Crawfish harvest limited to 100 pounds per person per day. No traps or nets left overnight. No motorized watercraft allowed on

farm complexes. Retriever training allowed on selected portions of the WMA. Contact the Opelousas Field Office for specific details. Vehicular traffic prohibited on Atchafalaya River levee within Sherburne WMA boundaries. Rifle and Pistol Ranges open daily. Skeet ranges open by appointment only, contact Hunter Education Office. No trespassing in restricted area behind ranges. Note: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

cc. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry.

dd. Spring Bayou. Commercial Fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas Field Office. Closed until after 2 p.m. during waterfowl season. Sport Fishing: Same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only, limit 100 pounds per person per day. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou Camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac.

ee. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs/UTVs are not allowed except as otherwise specified.

ff. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only.

gg. Tunica Hills. Camping limited to tents only in designated area.

hh. Union. All nighttime activities prohibited except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 39:2292 (August 2013).

Ronald Graham  
Chairman

1308#045

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Resident Game Hunting Season (LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission has amended the rules for hunting seasons for resident game birds and game quadrupeds.



**Title 76  
WILDLIFE AND FISHERIES**

**Part XIX. Hunting and WMA Regulations**

**Chapter 1. Resident Game Hunting Season**

**§101. General**

A. The resident game hunting season regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the regulation pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 36:1580 (July 2010), LR 37:2206 (July 2011), LR 38:1747 (July 2012), LR 39:2307 (August 2013).

**§103. Resident Game Birds and Animals**

A. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

B. Consult regulation pamphlet for seasons or specific regulations on wildlife management areas or specific localities.

C. Deer Hunting Schedule—2013-2014

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3rd Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: 1st Saturday of October CLOSES: Last Day of February	8	16
Squirrel*	OPENS: 1st Saturday of May for 23 days	3	6
Deer 2013-14	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (not to exceed 3 antlered deer or 4 antlerless deer)
Deer 2014-15	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (not to exceed 3 antlered deer or 4 antlerless deer)

\*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some state wildlife management areas will be open, check WMA season schedule.

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov.(EITHER SEX) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. (EITHER SEX FOR 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Friday after Thanksgiving CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Dec. (EITHER SEX) OPENS: 2nd Sat. of Jan. CLOSES: Sun. after 2nd Sat. of Jan. (EITHER SEX) OPENS: 3rd Sat. of Jan. CLOSES: Sun. after 3rd Sat. of Jan. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: 3rd Sat. of Dec. CLOSES: Sun. after 3rd Sat. of Dec. (EITHER SEX) OPENS: 4th Sat. of Dec. CLOSES: Sun. after 4th Sat. of Dec. (EITHER SEX) OPENS: 1st Sat. of Jan. CLOSES: Sun. after 1st Sat. of Jan. (EITHER SEX)
5	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. (EITHER SEX) OPENS: Day after the close of Modern Firearm Season CLOSES: After 7 consecutive days (EITHER SEX)	OPENS: Day after Thanksgiving Day CLOSES: 4th Sun. of Dec. (BUCKS ONLY)	
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct.(EITHER SEX) OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov. (BUCKS ONLY).	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after 3rd Sun. of Oct. CLOSES: Fri Before 1st Sat. of Nov.(BUCKS ONLY) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX)	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec. (BUCKS ONLY)	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 1st Sat. of Dec. CLOSES: After 37 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. in Oct. (EITHER SEX) OPENS: 2nd Sat. of Nov. CLOSES: Sun. after 2nd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)	

D. Modern Firearm Schedule—2013-2014 (either sex seasons)

Parish	Area	Modern Firearm Either-sex Days
West Carroll	Area 5	Opens Friday after Thanksgiving Day for 3 days.

E. Deer Hunting Schedule 2014-2015

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. (EITHER SEX FOR 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Friday after Thanksgiving CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Dec. (EITHER SEX) OPENS: 2nd Sat. of Jan. CLOSES: Sun. after 2nd Sat. of Jan. (EITHER SEX) OPENS: 3rd Sat. of Jan. CLOSES: Sun. after 3rd Sat. of Jan. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: 3rd Sat. of Dec. CLOSES: Sun. after 3rd Sat. of Dec. (EITHER SEX) OPENS: 4th Sat. of Dec. CLOSES: Sun. after 4th Sat. of Dec. (EITHER SEX) OPENS: 1st Sat. of Jan. CLOSES: Sun. after 1st Sat. of Jan. (EITHER SEX)
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Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. (EITHER SEX) OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov. (BUCKS ONLY).	OPENS: 3rd Sat. of Oct. CLOSES: 3rd Sun. of Oct. (EITHER SEX) OPENS: Mon. after 3rd Sun. of Oct. CLOSES: Fri. Before 1st Sat. of Nov. (BUCKS ONLY) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX)	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. (BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. (EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec. (BUCKS ONLY)	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 1st Sat. of Dec. CLOSES: After 37 days (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. in Oct. (EITHER SEX) OPENS: 2nd Sat. of Nov. CLOSES: Sun. after 2nd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)	

F. 2014-2015 Modern Firearm Schedule  
(Either Sex Seasons)

Parish	Area	Modern Firearm Either-sex Days
West Carroll	Area 5	Opens Friday after Thanksgiving Day for days, and 1st Sat of Dec. for 2 days.

G. Farm-raised white-tailed deer on supplemented shooting preserves:

1. archery, firearm, primitive firearms—October 1-January 31 (either-sex).

H. Exotics on supplemented shooting preserves:

1. either sex—no closed season.

I. Spring squirrel hunting:

1. season dates—opens first Saturday of May for 23 days.

2. Closed areas:

a. Kisatchie National Forest, national wildlife refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below.

3. Wildlife management area schedule—opens first Saturday of May for nine days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may be taken on wildlife management areas during this season.

4. Limits—daily bag limit is three and possession limit is six.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1280 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37: 2207 (July 2011), LR 38:1747 (July 2012), LR 39:2307 (August 2013).

Ronald Graham  
Chairman

1308#046

**RULE**

**Workforce Commission  
Office of Unemployment Insurance**

Appealed Claims for Board of Review  
(LAC 40:IV.109 and 113)

Pursuant to the authority granted in R.S. 23:1653, R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission amended §§109 and 113. The purpose of the amendment to §109 is to remove obsolete nomenclature from the body of the Section and to explain the effects of Saturdays, Sundays, and legal holidays on the computation of time delays associated with R.S. 23:1629 and R.S. 23:1630. Stylistic

revisions to §113 to improve readability. Revisions to §113 are also extended the 15-minute grace period afforded to in-person hearing appellants to telephone hearing appellants.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part IV. Employment Security**

**Subpart 1. Board of Review**

**Chapter 1. Employment and Security Law**

**§109. Appeals to the Appeals Tribunal and Board of Review**

A. The party appealing from the agency's initial determination shall file written appeal, setting forth information required therein within 15 days after date notification was given or was mailed to his last known address.

B. It is hereby further provided that any communication written by claimant or employer to the Louisiana Workforce Commission or the board disputing the determination or appeal decision may be accepted as an appeal, provided said written communication is received by any office of the Louisiana Workforce Commission or by the board within 15 days after notification, was given or was mailed to his last known address.

C. Legal holidays and days on which the Louisiana Workforce Commission is closed shall not serve to extend the delay periods specified in R.S. 23:1629 and R.S. 23:1630.

D. Proof of the timeliness of mailing a request for appeal shall be shown only by the date indicated on the electronic transmission, by a legible official United States postmark, or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. In the event that the date of the electronic transmission or postmark is absent, illegible, or manifestly incorrect, the date that the request is received in the appeals tribunal or board of review office shall determine whether the appeal was timely filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:485 (June 1989), amended by the Department of Employment and Training, Board of Review, LR 17:36 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance LR 39:2312 (August 2013).

**§113. Postponements, Continuances, Reopenings, and Rehearings**

A. Continuances or Postponements

1. A scheduled hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon a showing of good cause by written request of a party, submitted to the administrative law judge whose name and address appear on the notice of hearing. Written notice if the time and place of a postponed or continued hearing shall be given to the parties or their named representatives.

2. The administrative law judge shall provide written denial to any party whose written request for postponement or continuance is received after his decision has been mailed. The requesting party shall also be provided written notice of his right either to file written request of a reopening of hearing before the administrative law judge within seven days from the date of mailing of the decision on the claim or

to file further appeal to the Board of Review under §109 and §125. The untimely request for postponement or continuance shall not itself be treated as an appeal of the decision to the board of review. An appeal may also be timely filed by a party before the Board of Review under §109 and §125 after a written response to the request for reopening is issued by the administrative law judge.

3. Any such request of a party and response of the administrative law judge shall be incorporated in the case file.

B. Non-appearance of Appellant. If the appellant, who is the party who files the appeal before the appeals tribunal, fails to appear within 15 minutes after the scheduled hearing time at an in-person hearing, or fails to be available to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall order the appellant in default and issue a dismissal of appeal. In such event, the agency determination shall become the final decision. Written notice of default of the appellant and dismissal of the appeal shall be mailed to the parties. The appellant either may file a written request for reopening before the administrative law judge, with a showing of good cause, within seven days of the date of mailing of the dismissal decision or may file an appeal before the Board of Review under §109 and §125. If such appellant is denied a reopening by the administrative law judge, any such request shall be forwarded to the board of review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the Board of Review on appeal that the appellant has shown good cause for his nonappearance, the dismissal shall be vacated and a new hearing on the merits shall be scheduled.

C. Non-Appearance or Late Appearance of Appellee. If the appellee, who is the party whose agency determination is being appealed by another party before the appeals tribunal, fails to appear at the scheduled hearing time of an in-person hearing, or fails to be available to receive the telephone call to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall proceed to conduct the hearing and issue a decision on the merits based upon the administrative record and any evidence and testimony presented by the appellant. The appellee may either file a written request for reopening before the administrative law judge, with a showing of good cause, within seven days of the date of mailing of the decision or may file an appeal before the board of review under §109 and §125. If such appellee is denied a reopening by the administrative law judge, any such request shall be forwarded to the board of review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the board of review on appeal that the appellee has shown good cause for his non-appearance, the decision shall be vacated, and a new hearing on the merits shall be scheduled.

D. Good Cause for Reopening or Rehearing

1. The administrative law judge or the Board of Review shall make a determination of good cause for failure to appear only if the written request for reopening or the appeal filed by the party contains a statement of the reason(s) for his failure to act in a timely manner and

reasonably justifies a finding of good cause to excuse such failure.

2. To determine whether good cause has been shown in a request for reopening or in an appeal to excuse the failure of a party to appear, the administrative law judge and the board of review shall consider any relevant factors, including, but not limited to:

- a. reasonably prudent behavior;
- b. untimely receipt of notice;
- c. administrative error;
- d. reasons beyond control or avoidance;
- e. reasons unforeseen;
- f. timely effort to request continuance;
- g. physical incapacities;
- h. degree of untimeliness; or
- i. prejudice to parties.

3. Failure to provide timely notice of change or correction of address shall not establish good cause for failure to appear.

4. The basis of any determination by the administrative law judge or the board of review relating to good cause must be provided in the written response or decision. The fulfillment of each of the above factors is not required in any such response or decision for the establishment of good cause for failure to appear.

5. A written request for reopening before the administrative law judge may be filed within seven days of the date of mailing of his decision or an appeal to the board of review may be filed under §109 and §125 by any party for admission of additional evidence upon the showing of good cause that any such evidence is newly discovered or was unavailable or unknown at the time of the hearing.

E. Terminology. The term party or parties, as used in these rules, shall mean the claimant and the employer or any legal or designated representative thereof, including the administrator in those appeals in which he is specified as a party under R.S. 23:1629.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:36 (January 1991), repromulgated by the Department of Labor, Office of Employment Security, Board of Review LR 23:76 (January 1997), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2312 (August 2013).

Curt Eysink  
Executive Director

1308#051

## RULE

### Workforce Commission Office of Unemployment Insurance

Benefits for Unemployment Insurance  
(LAC 40:IV.Chapter 3)

Pursuant to the authority granted in R.S. 23:1653, R.S. 23:1654, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is

hereby given that the Louisiana Workforce Commission amended §301, §323, promulgated §324, amended §§353 and 357, promulgated §368, and amended §§369 and 371. The revision of §301 is solely to change the name of the agency to Louisiana Workforce Commission. The amendments to §323 are to clarify the time in which an employer shall file a labor dispute. The promulgation of §324 proposed to clarify R.S. 1624.1. Revisions to §353 are to clarify the Agency's disclosure of information. The modifying of §357 is to add a reference to §324. Section 368 clarifies R.S. 23:1601(8)(a) what adequate documentation should be provided by claimant. The revisions to §369 are to clarify terminology employed in the companion statute (R.S. 23:1713) and to incorporate amendments made to R.S. 23:1713. Finally, the revisions for §371 are to amend the payment schedule.

#### **Title 40**

### **LABOR AND EMPLOYMENT**

#### **Part IV. Employment Security**

##### **Subpart 1. Board of Review**

##### **Chapter 3. Employment Security Law**

##### **§301. Authority**

A. By virtue of the authority vested in the administrator of the Louisiana Workforce Commission of the state of Louisiana by the Louisiana Employment Security Law, R.S. 23:1471-1713 (Act 97 of 1936), as amended, and in order to establish uniform procedure under said law, the following regulations have been and are adopted and prescribed and all other regulations now in effect are hereby rescinded, but remain in full force and effect relative to all matters arising prior to the effective date of the hereinafter prescribed and adopted regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:487 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:38 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2314 (August 2013).

##### **§323. Separation Notices**

###### **A. Individual Separation Notices**

1. Under Conditions Which May Disqualify. Whenever a worker is separated from his employment permanently or for an indefinite period or for an expected duration of seven or more days, under conditions which may disqualify him for benefits pursuant to the provisions of R.S. 23:1601, his employer shall within three days after such separation give him, or if such delivery is impossible or impracticable, mail to his last known address a separation notice alleging disqualification on which the employer has entered the required information. Within the same period of time, the employer shall send a copy of such separation notice, certified by himself or his duly authorized agent, to the administrator.

###### **B. Mass Separation Notices**

1. In the event of a separation of 50 or more individuals by an employer for the same reason and about the same time, the employer shall notify the administrator of

such separation. Upon receipt of such notice, the administrator shall make full investigation.

###### **C. Labor Dispute Notices**

1. In case of a separation due to a labor dispute, the employer shall within three days after such separation file with the administrator a notice setting forth the existence of such a dispute and the approximate number of workers affected.

2. Upon request by the administrator, such employer shall furnish the names of workers ordinarily attached to the department or the establishment where unemployment is alleged to be caused by a labor dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:489 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:40 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2314 (August 2013).

##### **§324. Reply to Notice of Eligibility**

A. When the employer or the employer's agent receives the notice specified by R.S. 23:1624 of a claimant's eligibility for benefits or other notice that an application for benefits has been made; the employer or employer's agent shall, within the time specified in the notice examine the notice against the claimant's record and shall reply to the notice. The reply shall either protest or indicate no known cause to protest a decision granting eligibility or otherwise shall inform the department of any known facts bearing on a determination whether benefits shall be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance, LR 39:2314 (August 2013).

##### **§353. Disclosure of Information Pursuant to R.S. 23:905**

A. R.S. 23:905 governs the agency's sharing Louisiana workers' employer and wage information (hereinafter *shared information*) with third-party vendors that facilitate the obtaining of such information by third parties under circumstances where such sharing is permitted by 20 CFR Part 603 and not otherwise prohibited by law. A third-party vendor is a person or entity that facilitates the obtaining of shared information as an authorized agent of another person or entity to whom the release of the shared information is permitted by law and by 20 CFR Part 603. However, this rule shall not apply to or restrict the sharing of such information, to the extent permitted by law and 20 CFR Part 603, directly to the individual or the individual's attorney.

B. All sharing of data pursuant to R.S. 23:905 shall comply with 20 CFR Part 603 and any other federal requirements or formal guidance governing such data sharing, including but not by way of limitation the requirement that the terms and conditions of such data sharing arrangements be prescribed in a data-sharing agreement. The agency shall require third party vendors to sign agreements with the agency establishing specific terms and conditions determined by the agency, in its sole



discretion, to be necessary and appropriate to the particular data sharing arrangement with the third-party vendor.

C. Before providing any shared information to a third-party vendor, the agency shall require from the third-party vendor and/or the person or entity on whose behalf the third-party vendor requests shared information (the client) documentation sufficient to verify the third-party vendor's representation of the client. The agency's costs in establishing any such data sharing arrangement shall be paid to the agency as a condition precedent to the implementation of any information sharing arrangement under R.S. 23:905.

D. A release consenting to the disclosure that meets the requirements of 20 CFR Part 603 and signed by each person whose information is requested shall be provided to the agency before any data about that person is shared pursuant to this rule, and the agency's cost in providing said information shall be paid to the agency before the requested information is provided to the third-party vendor. The agency may accept a release that is effectuated electronically to the extent permitted by United States Department of Labor unemployment insurance program letter No. 19-12, or any other subsequent official guidance or requirements promulgated by the United States Department of Labor.

E. Third-party vendors shall reimburse the agency for all costs the agency incurs in defending or resisting subpoenas or other legal demands made upon the third-party vendor or their customers seeking the release of information shared pursuant to R.S. 23:905.

F. The purposes for which shared information may be provided to third-party vendors are limited to lending purposes, tenant screening and insurance underwriting, and such sharing is permitted only if the purpose specified in the release provides a service or benefit the individual expects to receive as a result of signing the release. The use of shared information for marketing or any other purposes is prohibited.

G. As required by 20 CFR Part 603, the agency must conduct, and third-party vendors and their clients must permit, random on-site visits by agency auditors of their compliance with the requirements governing their access to, redisclosure of, and retention and disposal of shared information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:494 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:46 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2314 (August 2013).

### **§357. Terms and Conditions Not Applicable to Claims for Payment of Extended Compensation**

A. Section 1600(4) of the Louisiana Employment Security Law, pertaining to a waiting period of one week, is not applicable to claims for extended compensation.

B. All disqualifications for regular benefits apply to extended benefits in the same manner and to the same extent as to regular claims.

C. The forwarding of an extended compensation claim notice to a former employer of an individual does not serve to reopen a previously resolved issue or open to adjudication

any issue concerning which an employer failed to furnish information within the time provided by §323 and §324.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:46 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2315 (August 2013).

### **§368. Disqualification for Benefits Pursuant to R.S. 23:1601(8)(a)**

A. The agency will notify the claimant by mail or other delivery method if the administrator has received information that the claimant has earned unreported wages for the weeks claimed.

1. The claimant shall have seven days from the date of the mailing to respond.

a. The claimant must provide adequate supporting documentation to establish that the unreported wages are incorrect.

b. Adequate documentation may include but is not limited to:

- i. proof of incorrect identity;
- ii. proof of incorrect date of wages;
- iii. check stubs;
- iv. time sheets;
- v. notice of separation or termination.

2. If the claimant requests notice to be sent by electronic delivery or delivery in another method beside mail, then the claimant shall have seven days from the delivery date of such notice to respond.

3. Acceptable forms of electronic delivery may include but are not limited to:

- a. facsimile;
- b. e-mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance, LR 39:2315 (August 2013).

### **§369. Waiver of Overpayment Recovery**

A. Requirements for Waiver of Recovery of Overpayments

1. A waiver of the overpayment may be granted only if:

- a. the claimant was without fault in causing the overpayment;
- b. repayment would be against equity and good conscience; and
- c. the claimant provided supporting documentation of his inability to pay in full or according to the repayment table in §371.

2. When a claimant appeals an overpayment determination, a written questionnaire shall be provided to claimant for an answer. The claimant shall return the completed questionnaire to the administrator within 15 days of the date of such questionnaire. If the claimant fails to return the completed questionnaire timely, then the waiver shall be denied.

3. In any proceedings, under this rule, the overpaid claimant shall have the burden of proving entitlement to a waiver.

**B. Determination of Fault**

1. To determine if fault existed on the part of the claimant, the factors considered shall include:
  - a. gave inaccurate information;
  - b. failed to disclose a material fact;
  - c. knew or should have known that he/she is not entitled to the benefits;
  - d. caused the overpayment by an act of omission of information known to the claimant; or
  - e. had a determination of ineligibility due to fraud.

2. An affirmative finding on any one of the above precludes waiver of the overpayment.

**C. Equity and Good Conscience Determination**

1. In determining whether recovery of the overpayment would be against equity and good conscience, the factors considered shall include:

a. financial and other information provided in response to the agency's request, which shall include information about:

- i. all financial resources available to the claimant and members of the claimant's household;
- ii. the claimant's living expenses, including, but not by way of limitation, expenses for:
  - (a). food;
  - (b). clothing;
  - (c). rent;
  - (d). debt payment;
  - (e). obligations;
  - (f). accident and health insurance;
  - (g). medical care;
  - (h). taxes;
  - (i). work related transportation; and
  - (j). the support of others for whom the claimant is legally responsible; and
- iii. any other factors that impact the claimant's ability to cover ordinary living expenses for at least six months;

2. whether the claimant was given notice that a reversal on appeal would result in an overpayment.

D. All notices of determination of overpayment shall include information regarding rights of appeal and waiver provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:1086 (December 1989), repromulgated LR 17:48 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2315 (August 2013).

**§371. Overpayment Recovery; Civil Penalties**

A. This rule prescribes an acceptable repayment schedule for the purpose of collecting overpaid benefits pursuant to R.S. 23:1714.

Repayment Tables Total for Overpayments			
Total Overpayment Amount is: At Least	But Less Than:	Number of Months to Repay	Recommended Monthly Payment
\$1	\$500	12	\$41
\$501	\$1,000	12	\$83
\$1,001	\$1,500	18	\$83
\$1,501	\$2,000	18	\$111
\$2,001	\$2,500	24	\$104
\$2,501	\$3,000	24	\$125
\$3,001	\$3,500	30	\$116
\$3,501	\$4,000	30	\$133
\$4,001	\$4,500	36	\$125
\$4,501	\$5,000	36	\$138
\$5,001	\$5,500	42	\$130
\$5,501	\$6,000	42	\$142
\$6,001	\$6,500	48	\$435
\$6,501	\$7,000	48	\$145
\$7,001	\$7,500	54	\$138
\$7,501	\$8,000	54	\$148
\$8,001	\$8,500	60	\$141
\$8,501	\$9000 or greater	60	\$150

C. Initial payment must be received within 45 days of the date upon which the repayment agreement is signed. Subsequent payments are due to be paid in monthly increments which must be received no later than 30 days thereafter.

D. An adjustment of the repayment schedule may be granted at the written request of the claimant only if there has been material change in his or her financial condition.

E. Requests to adjust the repayment schedule will only be granted if warranted by the criteria set forth in §369.C, waiver of overpayment recovery, equity and good conscience determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:1085 (December 1989), repromulgated LR 17:48 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2316 (August 2013).

Curt Eysink  
Executive Director

1308#050

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Board of Animal Health

#### TB Testing of Mexican Cattle (LAC 7:XXI.101 and 341)

Under the enabling authority of R.S. 3:2093 and 3:2135 and in accordance with the Administrative Procedures Act (R.S. 49:950 et seq.) the Department of Agriculture and Forestry, Board of Animal Health is intending on amending and adopting the rules and regulations (the proposed action) for testing Mexican cattle for tuberculosis.

The proposed action is being taken because Louisiana is a bovine tuberculosis-free state. As a result, Louisiana cattle may move freely in interstate commerce, sell for a better price, and are not subject to quarantine and restrictions that would apply if Louisiana were not a tuberculosis-free state. Recently, tuberculosis has been found in rodeo stock in other states. Investigations have revealed that the source appears to be cattle from Mexico imported into the United States. The proposed action is necessary to prevent the introduction and spread of bovine tuberculosis into this state, protect Louisiana's cattle industry, and to maintain the state's tuberculosis-free status.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 1. General Provisions

#### §101. Definitions

\* \* \*

*Bovine Tuberculosis*—a disease in cattle, bison, or dairy goats caused by *Mycobacterium bovis*.

\* \* \*

*Mexican Cattle*—cattle that were born in Mexico or have been in Mexico at some time in their lives

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 11:615 (June 1985), LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 28:1170 (June 2002), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2336 (November 2008), LR 35:1465 (August 2009), LR 39:

#### Chapter 3. Cattle

#### §341. Tuberculosis Testing of Mexican Cattle;

##### Documentation

A. Mexican cattle which are used, or intended to be used, at rodeos, timed events, team events, or other similar events or as roping stock.

1. Mexican cattle in this category entering Louisiana from another state shall be accompanied by the following documents:

a. a certificate of veterinary inspection (CVI) that includes, in legible marking:

i. an official identification eartag (840 RFID tag or metal brite tag); and

ii. an official entry permit number issued by the department;

b. proof of a negative test for bovine tuberculosis taken within 60 days prior to the cattle entering the state;

c. the original or a certified copy of the tuberculosis test chart.

2. Mexican cattle in this category entering Louisiana directly from Mexico shall be accompanied by the documents listed in Paragraph A.1 of this Section and shall:

a. enter into quarantine at the first destination premises in the state;

b. test negative for tuberculosis within 60-120 days of arrival in this state, with all testing to be at the expense of the owner of the cattle;

c. not move from quarantine except with specific permission from the department and then only to events or activities where commingling with other cattle will not occur until confirmation of a negative post entry re-test for tuberculosis is obtained.

B. Mexican cattle that are under 18 months of age and which are brought into this state, either from another state or directly from Mexico, for grazing purposes prior to shipment to a feedlot or to slaughter shall be:

1. accompanied by a certificate of veterinary inspection (CVI);

2. moved under permit from the department only to a pasture or pen which has fencing sturdy enough to contain the cattle and to prevent co-mingling with other cattle and which pasture or pen has been approved by the department; and

3. subsequently moved from the pasture or pen only to a feedlot prior to going directly to slaughter or to a stockyard for sale for slaughter only.

C. At any time Mexican cattle enter the state and any time they are in the state, the latest tuberculosis test chart shall be, upon request, presented for inspection to a duly authorized officer, employee, or agent of the department or APHIS.

D. All Mexican cattle permanently located in this state shall be retested annually for tuberculosis at the expense of their owner.

E. All tuberculosis tests shall be conducted by a USDA accredited veterinarian, the test records shall be maintained with the cattle and, upon request, presented for inspection to a duly authorized officer, employee, or agent of the department or APHIS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Board of Animal Health, LR 39:

### Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed action.

### Poverty Impact Statement

It is anticipated that the proposed action will have no significant effect on:

1. household income, assets, and financial security;
2. early childhood or educational development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act (R.S. 49:965.2-965.8). The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

### Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to John Walther, Assistant Commissioner, Office of Animal Health and Food Safety, Director of Veterinary Health Division, Department of Agriculture and Forestry, telephone (225) 922-1234; fax (225) 923-4783; mailing address, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on September 27, 2013. No preamble regarding the proposed action is available

### Public Hearing

A public hearing will be held on the proposed action on October 2, 2013 at 9 a.m. in the Veterans Memorial Auditorium at 5825 Florida Blvd., Baton Rouge, LA. No preamble regarding the proposed action is available.

Mike Strain, DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: TB testing of Mexican Cattle

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a material effect on governmental costs or savings.

The Department of Agriculture and Forestry, Board of Animal Health is amending and adopting rules and regulations for testing Mexican cattle for tuberculosis (TB). The proposed action is being promulgated because Louisiana is a TB free state for bovines. As a result, Louisiana cattle may move freely

in interstate commerce, sell for a better price, and are not subject to quarantine and restrictions that would apply if Louisiana was not a TB free state. Tuberculosis has been found in rodeo stock in other states. Investigations have revealed that the source appears to be cattle from Mexico imported into the United States. The proposed action is necessary to prevent the introduction and spread of TB in bovines into this state, protect Louisiana's cattle industry, and maintain the state's TB free status.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a material effect on governmental revenues.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The anticipated cost to persons who bring or maintain Mexican cattle in this state is estimated to be approximately \$20 per TB test per animal. The overall annual cost to these persons, as a group, cannot be calculated at this time because there is no available data to determine the number of Mexican cattle that are brought or maintained in this state. The economic benefit to cattle producers in this state is the avoidance of TB tests and compliance with other rules and regulations of this state and of other states governing the sale or movement of cattle from states that are not TB free.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a material effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1308#039

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

#### Wood Destroying Insect Report (WDIR) Requirements (LAC 7:XXV.121)

Under the enabling authority of R.S. 3:3366 and R.S. 3:3370 and in accordance with the Administrative Procedures Act (R.S. 49:950 et seq.), the Department of Agriculture and Forestry intends to amend the referenced rules and regulations (proposed action).

The proposed action amends the Rule governing issuance of a wood destroying insect report (WDIR) to clearly reflect that a WDIR is a report that is issued for a specific purpose and that a WDIR cannot be extended or form the basis for a guarantee to repair damages caused by wood destroying insects.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 1. Structural Pest Control Commission

#### §121. Wood Destroying Insect Report

A. A wood destroying insect report approved by the commission shall be issued only for inspections made to determine the presence of wood destroying insects for acts of sale or refinance of structures.

1. A wood destroying insect report shall not be renewable or issued for any other purposes, and shall not

provide a guarantee to repair damage caused by wood destroying insects.

2. No licensee, pest control operator, or any person employed or supervised by a licensee or pest control operator, either before or after issuing a wood destroying insect report, shall represent, orally or in writing, to any customer or potential customer that if wood destroying insects are discovered more than 90 days after the date of the WDIR inspection the licensee or pest control operator will treat the property at no cost or repair any damage caused by the wood destroying insects.

B. - C. ...

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9. Additional comments shall not contain language that extends the time for treatment contained in the WDIR should termites be discovered, that provides for or incorporates documents that provide inspection guarantees, damage repair guarantees or treatment guarantees, or that amends, modifies, or deletes any terms and conditions of the WDIR. (If necessary, continue on reverse side.)

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D. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3670.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:797 (May 2006), repromulgated LR 32:1017 (June 2006), amended LR 37:282 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 39:

**Family Impact Statement**

It is anticipated that the proposed action will have no significant effect on the:

- 1. stability of the family;
- 2. authority and rights of parents regarding the education and supervision of their children;
- 3. functioning of the family;
- 4. family earnings and family budget;
- 5. behavior and personal responsibility of children; or
- 6. ability of the family or a local government to perform the function as contained in the proposed action.

**Poverty Impact Statement**

It is anticipated that the proposed action will have no significant effect on:

- 1. household income, assets, and financial security;
- 2. early childhood or educational development;
- 3. employment and workforce development;
- 4. taxes and tax credits; or
- 5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act (R.S. 49:965.2-965.8). The

agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Public Comments**

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to David Fields, Assistant Director of Agricultural and Environmental Sciences Department of Agriculture and Forestry, P.O. Box 3596, Baton Rouge, LA 70821 or 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on September 27, 2013.

**Public Hearing**

A public hearing will be held on the proposed action on October 2, 2013 at 9 a.m. in the Veterans Memorial Auditorium at 5825 Florida Blvd., Baton Rouge, LA. No preamble regarding the proposed action is available.

Mike Strain, DVM  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Wood Destroying Insect Report (WDIR) Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed action is not anticipated to have a material effect on governmental costs or savings.

The proposed action amends the Rule governing issuance of a wood destroying insect report (WDIR) to clearly reflect that a WDIR is a report that is issued for a specific purpose and that a WDIR cannot be extended beyond the 90 day period required by regulation or form the basis for a guarantee to repair damages caused by wood destroying insects. This proposed action is necessary to maintain the status of a WDIR as a report and avoid it becoming an expressed or implied contract that does not meet the requirements for a state standard contract under R.S. 3:3370 or under current rules and regulations of the Structural Pest Control Commission.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed action is not anticipated to have a material effect on governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed action is not anticipated to have a material effect on the costs or economic benefits of directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed action is not anticipated to have a material effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1308#041

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Animal Care Standards (LAC 7:XXI.Chapter 31)

Under the enabling authority of R.S. 3:2095.1 and in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) the Department of Agriculture and Forestry, Office of Animal Health and Safety, Board of Animal Health is intending on adopting the rules and regulations (proposed action) set out below.

R.S. 3:2095.1 mandates that the Board of Animal Health, subject to the approval of the commissioner of agriculture and forestry, adopt standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. These standards of care are necessary because the statute prohibits any municipality, parish, local governmental entity or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area from enacting any ordinances law, subdivision restriction or regulation that establish standards of care applicable to these categories of animals unless the ordinance, regulation or restriction has been reviewed by the board and approved by the commissioner. Review and approval cannot occur until these standards of care have been promulgated in accordance with the APA. The standards of care proposed for adoption have been approved by the commissioner.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

### Chapter 31. Standards of Care for Bovine, Equine, Ovine, Caprine, Porcine, and Poultry used for Show, Profit, or Production

#### §3101. Definitions

A. In addition to the definitions listed below, and unless otherwise provided, the definitions in §101 of this Part shall apply to this Chapter.

B. The terms defined in this Chapter have the meanings given to them in this Section, except where the context expressly indicates otherwise.

C. Terms defined in this Section

*Ambulatory*—state of biological function where an animal is capable of walking without pain for an extended period of time.

*Animal Care and Well-Being Plan*—a program or method for providing or ensuring that an animal's basic needs are met to maintain their health, biological function, and physical and behavioral needs.

*Animal Health*—physical state of an animal.

*Animal Husbandry*—the branch of agriculture concerned with the care and breeding of domestic animals such as cattle, horses, pigs, and sheep.

*Animal Husbandry Procedures*—a way of performing or effecting the care and breeding of livestock.

*Beef Quality Assurance Guidelines (BQA)*—accepted production standards for quality and safety, including biosecurity, animal health and well-being, production

performance and environmental stewardship, that are appropriate to an operation and which can be met or exceeded in an objective manner.

*Behavioral Needs*—a particular animal's need to express behaviors given their species, age, sex, and physiologic state.

*Biosecurity*—preventive measures designed to reduce the risk of transmission of infectious diseases, parasites and pests.

*Body Condition*—refers to the health or physical fitness of the animal.

*Body Condition Score (BCS)*—accepted management tool used by producers, veterinarians, extension personnel, and researchers to evaluate the nutritional level of livestock based on a numerical scale.

*Conspecific Aggression*—hostile actions or fighting among a group of animals of the same species.

*Discomfort*—unpleasant sensations other than pain caused by a disruption of normal biologic function or psychological needs.

*Disease*—pathologic condition of any part of an animal's biology.

*Distress*—state of mental or physical pain, intense anxiety, or suffering affecting the animal that may require immediate attention.

*Electric Stunning*—application of high amperage current passed through the brain which renders the animal instantly unconscious.

*Electro-immobilization*—use of electricity to immobilize and paralyze animals that does not render them unconscious or insensible to pain.

*Euthanasia*—intentional causing humane death of an animal in order to relieve pain and suffering.

*Facility*—premises or something such as a fenced in area or a structure or structures constructed to serve a function related to livestock.

*Good Animal Health*—having good biological function and being free of disease and injury.

*Handling*—actions involving hands on treatment of livestock such as loading or unloading, restraining, or moving animals in a pen or chute.

*Health*—normal biologic and physiologic function free of disease.

*Heat or Cold Stress*—external temperature and/or humidity causing change of an animal's physiologic function and/or causing distress.

*Humane Death*—when an animal dies with minimum pain and suffering that may result through utilization of methods such as inhalant agents, injectable euthanasia agents, or other physical methods.

*Humane Treatment*—care an animal receives with the intention and result of promoting animal health as balanced with considerations of human health, food safety, and animal production.

*Injury*—disruption of tissue causing pain or impaired function.

*Insensible*—unable to perceive any stimulus or having no cortical brain function.

*Knowledge*—having an awareness of scientifically valid facts regarding animal health and animal husbandry and the ability to apply these facts so as to ensure the care and well-being of animals.

*LDAF*—Louisiana Department of Agriculture and Forestry.

*Livestock*—bovine, equine, porcine, ovine, caprine, and poultry used for show, profit, selling, or producing crops, plant or animal products for market.

*Livestock Personnel*—producer or person in charge of animals.

*Mass Euthanasia*—putting to death populations of animals in unusual conditions such as wide spread disease eradication and circumstances resulting from natural disasters, as authorized by the State Veterinarian.

*Minimize Heat Stress*—systems utilizing one or more of the following to reduce the negative impact on animals due to heat stress- shade, facility design to improve air flow and ambient temperature from outside temperature and airflow, fans or forced air movement, water cooling systems such as misters, evaporative cooling systems, and climate controlled air conditioning.

*Minimize Pain and Distress*—actions taken to reduce or eliminate those stimuli resulting in pain or distress.

*National Chicken Council (NCC) Guidelines*—industry standard program for assessment of animal programs and practices in broiler and broiler breeder operations.

*Pain*—unpleasant stimulus associated with actual or potential tissue damage that is perceived as unpleasant.

*Parturition*—act of giving birth (i.e. calving, foaling, lambing, farrowing).

*Person in Charge*—person who has animal(s) under his supervision or control.

*Physiologic Requirements*—conditions needed to maintain an animal's normal body function given their physical, metabolic, and hormonal demands.

*Physiologic State*—functioning of an animal's body, including its current body systems, metabolism, and homeostasis.

*Practical*—method or technology which is easily available and economically viable as determined by acceptable standards.

*Producer*—person who owns and is responsible for the care of livestock that are raised for home use or for profit, especially on a farm.

*Rapid Loss of Consciousness*—that which causes an animal to lose consciousness within 60 seconds.

*Remedial Action*—any action taken to provide care, nutrition, treatment, veterinary treatment, or other action in order to eliminate the cause of compromised animal health.

*Shelter*—physical object or construct that provides protection from weather and climate to a specific animal; *shelter* may include manmade constructions, variations in the topography of land, plants, trees, and shrubbery as conditions may require.

*Stress*—reaction by an animal to an uncomfortable or unfamiliar physical or psychological stimulus that may include an increased state of alertness, anxiety, increased heart rate, or sweating.

*Sufficient*—enough to meet the physiological needs of the animal (i.e. adequate nutrition to maintain an average BCS).

*Supervision*—act or having the responsibility to ensure an animal is provided care.

*Timely Manner*—soon enough that is not too late.

*Veterinary Treatment*—procedure or care performed by or on the order of a licensed veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

### **§3103. General Standards that apply to the Production of All Animals**

A. Producer or person in charge of animals shall ensure that a sufficient level of animal health and animal care and well-being is maintained for the livestock.

1. Livestock personnel shall have the proper level of knowledge, ability, and competency to maintain the health and care and well-being of livestock as specified in this Code.

2. Livestock shall be inspected as determined by livestock personnel based on their age and physiologic state to ensure they remain healthy and to allow for timely remedial action for those livestock found to be diseased or distressed.

#### B. Exceptions

1. Any standard in this code may be excepted by or under the advice of a licensed veterinarian as required for the prevention, diagnosis, management, treatment, or control of disease or injury.

2. Any standard in this code may be excepted during a declared disaster, foreign animal disease outbreak, or other exceptional circumstance as deemed necessary by LDAF.

3. Any standards in this code may be excepted by LDAF as deemed necessary to promote animal health or care, human health, agriculture, food safety, or other compelling need of the people or resources of the state of Louisiana.

#### C. Housing

1. Shelter as defined in this document may be a necessary requirement for livestock. All facilities in which livestock are maintained shall be kept clean and ventilated so as to minimize injury or pain caused by noxious gases. All facilities in which livestock are maintained shall be constructed and maintained so as to minimize disease and injury to animals.

2. All facilities in which livestock are maintained shall be constructed and maintained so as to securely contain the livestock within.

3. Livestock shall be able to lie down and rest comfortably so as to meet their behavioral needs for rest.

4. For livestock housed in an indoor facility with concrete floor, dry bedding shall be provided for the comfort and warmth of the livestock.

#### D. Nutrition and Water

1. All livestock shall be provided sufficient food to maintain good health, meet their physiological requirements, and minimize nutritional or metabolic disease.

2. All livestock shall have access to water, including ponds, so as to maintain adequate hydration.

3. Nutritional standards for livestock may vary with level of activity, pregnancy/nursing status, age, or medical status; veterinary or nutritional consultation may be required to establish these standards.

4. Exception. Food and water may be temporarily withheld when handling, treating, or transporting livestock.

#### E. Health and Veterinary Care

1. All producers shall develop and implement an animal care and well-being plan to promote the health of the livestock.

2. Livestock shall be monitored regularly as determined by producers and livestock personnel so signs of injury or disease are identified in a timely fashion.

3. Producers shall treat signs of injury or disease in a timely manner to prevent or control compromised health of cattle.

a. Producers shall determine when a licensed veterinarian shall be consulted in the diagnosis, treatment, management, and prevention of injury or disease as necessary to minimize pain and distress of livestock.

4. Livestock other than dairy cattle with a body condition score less than three, and dairy cattle with a BCS less than two shall receive prompt care and/or treatment (see BCS charts below).

5. Livestock suffering from severe lameness shall receive prompt remedial action.

6. Livestock suffering from extreme pain or distress shall be examined by a licensed veterinarian or properly euthanized in a timely fashion as to minimize pain and distress.

7. Non-ambulatory livestock may be moved in the most effective manner deemed necessary by the producer or person in charge.

#### F. Parturition Management

1. Livestock observed to have vigorous straining and/or abdominal contractions while giving birth without progress shall have remedial action taken.

2. No motor vehicle shall be used to provide traction to assist parturition.

#### G. Sanitation

1. All facilities in which livestock are maintained shall be kept clean so as to minimize the spread of infectious disease to animals.

2. All facilities in which livestock are maintained shall have pest control so as to minimize the spread of infectious disease to animals.

3. All equipment used in managing livestock shall be kept clean so as to minimize the spread of infectious disease to livestock and to minimize pain.

4. All personnel shall maintain adequate biosecurity in facilities to minimize the spread of infectious disease to livestock.

#### H. Handling

1. Livestock shall be handled in a manner so as to minimize stress, risk of injury, and risk of exhaustion or heat stress to the livestock.

2. Only the minimum force necessary shall be used to move or restrain livestock.

3. Handling of livestock shall be performed with knowledge of the point of balance and flight zone when possible.

4. All facilities used to move or restrain livestock shall be designed and maintained so as to minimize stress, risk of injury, risk of exhaustion, risk of heat stress and shall allow livestock to be released rapidly if necessary.

5. Electric prodders shall not be used in the most sensitive areas of livestock: udder, eyes, nose, anus, prepuce, vulva, or testicles.

6. Livestock physically restrained in handling facilities shall be supervised at all times.

7. Electro-immobilization shall not be an acceptable handling technique for livestock.

#### I. Animal Husbandry Procedures

1. Certain animal husbandry procedures shall be performed only as necessary to protect animal and human health, allow animal management and production, and allow product attributes.

a. Necessary animal husbandry procedures include, but are not limited to: castration, disbudding, dehorning, branding, tattooing, and ear tagging.

2. Animal husbandry procedures shall only be performed by personnel with sufficient knowledge to minimize pain and distress.

3. Animal husbandry procedures shall be performed in a timely manner and physiologic state so as to minimize pain and distress.

#### J. Selection for Transport

1. Livestock transported for any reason shall be ambulatory at the time of loading.

2. Exception shall be when livestock need to be transported on-farm, farm to farm, or for veterinary care.

#### K. Transportation by land shall:

1. Be loaded and unloaded in a manner and with proper equipment and personnel so as to minimize stress and injury. Have sufficient headroom so as to not come into contact with the roof of the vehicle in a normal standing position.

2. Transportation vehicle shall:

a. have floors that are constructed and kept clean so as to minimize the slipping and falling of livestock; and Be constructed to allow visual inspection of all livestock during transport; and

b. be constructed to allow ventilation and protection in order to minimize the harmful effects of weather and climate.

3. Livestock shall be segregated into groups based on age, size, and other attributes so as to minimize injury, distress, and conspecific aggression.

4. Livestock shall be loaded at a density that minimizes injury and falling, but that allows animals to rise unassisted if fallen.

5. Livestock shall be transported as quickly as possible to their final destination and transported to their final destination directly when possible.

6. Pursuant to 49 USC § 80502, the transportation of livestock shall be planned so that animals are unloaded and provided rest, water, and feed on travel more than 28 hours.

#### L. On-Farm Euthanasia

1. Livestock shall be euthanized in a method that results in rapid loss of consciousness and animals must remain insensible until death. The following methods of euthanasia are approved for on farm use:

a. Captive bolt or rifle shot of at least .22 caliber administered so as to disrupt the cerebral cortex and brainstem; and

b. Barbiturate overdose administered by a licensed veterinarian or other licensed professional.

2. The carcass of any livestock euthanized shall be disposed of in a manner as to prevent the spread of



infectious disease or if euthanized by barbiturate overdose to prevent other animal exposure to the carcass.

3. The carcasses of all livestock shall be disposed of in a sanitary manner by cremation or burial of at least six feet according to R.S. 3:2131.

M. Body condition scoring for livestock is intended to be used as a practical guideline by which producers can measure animal care and well-being based on the animal's physical appearance as determined in the charts below.

1. Body Condition Scoring for Livestock other than Dairy Cattle

Score	Description
1. Poor	Severely emaciated; no fatty tissue; vertebrae, ribs, tail head, and bones of withers, shoulder, and neck are visible. All rib and bone structures easily visible. No fat over backbone, edge of loin, hip bones, or ribs. Tailhead and ribs project prominently. Animal has difficulty standing or walking.
2. Emaciated	Appears emaciated but tailhead and ribs are less prominent. Individual spinous processes are sharp to touch, but some tissue exists along the spine. Animal not weak, but no fat detectable.
3. Very Thin	Ribs are individually identifiable, but not sharply. No fat on ribs, brisket, spine or over tailhead. Individual hindquarter muscles easily visible, spinous processes apparent.
4. Thin	Individual ribs are not visibly apparent except the last two ribs. Backbone can be identified with slight pressure; individual spinous processes are rounded rather than sharp. Individual muscles in the hindquarter are apparent, but the quarter is straight.
5. Moderate	Good overall appearance. The last two ribs are not visible but can be easily felt. Hindquarter individual muscles are not apparent. Areas on either side of the tail head are filled and fat cover is palpable.
6. High Moderate	Good smooth appearance throughout. Ribs are not visible and are fully covered. Some fat deposition in the brisket. Spongy fat on ribs and pin bones and sides of tailhead. Firm pressure is needed to feel the spinous processes.
7. Good	Livestock appear fleshy and obviously carry considerable fat. Brisket is full. Tailhead and pin bones have protruding fat deposits. Back appears square.
8. Obese	Protruding fat deposits on tailhead and pin bones. Spinous processes almost impossible to feel. Brisket is distended and neck is thick.
9. Very Obese	The body has lost definition and contours disappear across back and sides as animal takes on a block-like smooth appearance. Tailhead and hips buried in fat deposits. Bony structures no longer visible or palpable.

2. Body Condition Scoring for Dairy Cattle

Score	Description
1. Emaciated	Deep cavity around tailhead. Bones of pelvis and short ribs are easily felt. No fatty tissue in pelvic or loin area. Deep depression in loins.
2. Thin	Shallow cavity around tailhead with some fatty tissue lining it and covering pin bones. Pelvis easily felt. Ends of short ribs feel rounded and upper surfaces can be felt with slight pressure. Depression visible in loin area.
3. Ideal	No cavity around tailhead and fatty tissue easily felt over entire area. Pelvis felt with slight pressure. Thick layer of tissue covering top of short ribs which is felt with pressure. Slight depression over loin area.
4. Fat	Fold of fatty tissue around tailhead with patches of fat covering pin bones. Short ribs cannot be felt. No depression in loin area.

Score	Description
5. Obese	Tailhead buried in thick layer of fatty tissue. Pelvic bones cannot be felt with firm pressure. Short ribs covered with thick layer of fatty tissue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

**§3105. Beef and Dairy Cattle Standards**

A. Body Condition Scoring (BCS) of Cattle

1. BCS is a standardized, objective method of evaluating the body condition of cattle regardless of breed, age, gender, or body type; body condition is a measure of fat cover and scores are indicative of energy reserves in the body.

2. Several conditions may affect body condition:

- a. lack of proper nutrition;
- b. severe parasitism;
- c. infectious disease;
- d. older animals.

3. Starvation shall not be ascertained by body condition alone but may be determined by amount of feed and forage available.

4. Consultation with a licensed veterinarian and or a knowledgeable livestock professional may be suitable in remedying the situation.

5. Body condition shall be evaluated by visual appraisal and by feeling six areas of the animal's body and then assigning an overall score.

6. Beef cattle scores range from 1 (severely emaciated) to 9 (very obese).

7. Dairy cattle scores range from 1 (emaciated) to 5 (obese).

8. BCS below 2 for beef or dairy scoring indicate emaciated cattle.

B. BQA Guidelines may be used as a standard reference for all cattle producers (beef and dairy) as a reference in areas of cattle management and record keeping.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

**§3107. Equine Standards**

A. Housing

1. All facilities in which horses are maintained shall be kept free of excessive feces, urine, mud, or other waste products.

2. All facilities in which horses are maintained shall be constructed and maintained to minimize hazards that may cause injury to the horses confined within.

3. For horses housed in an indoor facility with concrete floor, dry bedding shall be provided for the comfort and warmth of the horses.

4. Horses confined to minimal enclosed areas shall receive sufficient turnout time or controlled exercise (e.g., hand-walking, lunging, riding, driving, hot walker, treadmill) unless directed otherwise by a veterinarian.

5. When housed in groups, horses shall be segregated so as to minimize conspecific aggression.

## B. Nutrition

1. Concentrates, trace minerals, and salt may be used to balance the diet.

2. Horses confined without available pasture to graze may need daily supplemental feed; horses on pasture may need supplemental feed if the pasture is insufficient to maintain body weight and health.

## C. Water

1. Water troughs, water containers, and any automatic watering devices shall be cleaned and maintained on a regular basis.

### 2. Transportation of Equine

a. The following horses shall not be transported:

i. those that are non-ambulatory (cannot walk unassisted), weak and/or debilitated, cannot bear weight on one or more legs, blind in both eyes, or, unless being transported for veterinary care;

ii. foals shall not be transported until their navels are closed unless being transported for veterinary care.

### 3. Transportation by land shall:

a. load horses at a density that minimizes injury and falling, but that allows them to rise unassisted if fallen;

b. horses destined for slaughter shall be transported pursuant to USDA's Slaughter Horse Transport Program in addition to the regulations above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

## §3109. Porcine Standards

### A. Housing

1. If housed outdoors, shelter shall be readily available to swine so as to minimize the compromise to their health from heat and adverse weather.

2. If housed indoors, facilities shall be maintained so as to minimize the compromise to health from heat and adverse weather.

3. For any swine housed in a primary enclosure, such as a farrowing stall or gestation crate, the swine shall be able to:

a. lie in full recumbency without its head touching a feeder;

b. rise and lie down comfortably at will; and

c. stand so as to not touch more than one side of the enclosure simultaneously and so as to not touch the top of the primary enclosure.

4. Flooring shall be designed or managed so as to minimize slipping and so as to prevent urine scald to the swine.

5. If nursing piglets, the enclosure shall allow the sow to lie down as to minimize injury or death of her piglets.

### B. Nutrition and Water

1. Feed shall be provided in methods so as to minimize aggression and resultant injury to swine.

2. Any mechanical devices used to deliver feed or water shall be kept clean so as to minimize the spread of infectious disease, and shall be regularly inspected to ensure proper function.

### C. Animal Husbandry Procedures

1. Animal husbandry procedures include, but are not limited to castration, needle teeth clipping, tail docking, ear

notching, tattooing, and ear tagging, shall be performed only as necessary to protect animal and human health, allow animal management and production, and allow product attributes.

2. Animal husbandry procedures shall be performed in a timely manner and physiologic state so as to minimize pain and distress including:

a. clipping of needle teeth performed before 5 days of age;

b. teeth clipped at the tip of the tooth rather than the gum line;

c. ear notching, tail docking, and castration performed before 5 days of age.

### D. Farrowing and Piglet Management

1. Temperature control shall be provided in order to allow newborn pigs to maintain normal body temperature.

### E. Specific Recommendations on All Aspects of Swine Production

1. Producers shall consult the current *Swine Care Handbook* published by the National Pork Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

## §3111. Ovine and Caprine (Small Ruminants) Standards

### A. Housing

1. Shelter shall be readily available to small ruminants so as to minimize the compromise to their health from heat or adverse weather.

### B. Health and Veterinary Care

1. Management procedures shall be in place to minimize the distress or disease caused by *Haemonchus contortus*.

2. Management procedures shall be in place to minimize fly strike.

3. Small ruminants with a body condition score of or less than 3 shall receive prompt care and/or treatment by or on the advice of a licensed veterinarian to improve their body condition.

### C. Parturition and Lamb/Kid Management

1. All lambs or kids shall receive adequate nutrition from a lactating ewe or doe or shall be provided adequate nutrition by hand rearing if rejected, or have other remedial action taken.

### D. Shearing

1. Shearing shall be performed carefully so as to minimize distress and injury to the small ruminant.

### E. Animal Husbandry Procedures

1. Animal husbandry procedures include, but are not limited to:

a. castration;

b. disbudding;

c. dehorning;

d. foot trimming;

e. injections;

f. drenching;

g. shearing;

h. tail docking of wool sheep;

i. tattooing; and

j. ear tagging.

#### F. Selection for Transport

1. The following small ruminants are not fit for transport:

a. those unable to bear weight, unless transported for veterinary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

### §3113. Poultry Standards

#### A. Housing and Environment

1. Any facilities in which poultry are housed shall provide shelter so as to minimize the compromise to poultry health from heat, cold, adverse weather, and predation.

2. All (commercial) facilities in which poultry are housed shall be maintained so as to limit the exposure of feeding and watering devices and poultry to feces and urine.

3. All facilities in which poultry are maintained shall be designed, lighted, and stocked so as to allow visual inspections of poultry at any point in time.

4. Natural or artificial lighting mimicking the intensity and duration of daylight shall be provided, or other artificial lighting program exceeding this shall be provided, except as necessary for animal husbandry practices or introduction of new poultry. Any change in artificial lighting program shall be introduced gradually so as to prevent distress of poultry.

5. Stocking density shall follow NCC guidelines of pounds per square foot for commercial enterprises and for backyard flocks and shall not exceed that which does not allow all poultry to lie down simultaneously without being forced to lie on top of other poultry. Environmental moisture and dust shall be minimized in order to prevent the spread of infectious disease or compromise the health, care, and well-being of poultry.

6. Environmental temperature shall be controlled at a level that minimizes heat stress or cold stress to the poultry.

7. The following are acceptable housing systems.

##### a. Cages (Conventional and Enriched)

i. Cages shall be arranged so as to protect exposure of poultry in one cage from feces or urine from poultry in any other cage.

ii. Maximum slope for any cage shall be designed to support forward facing claws.

##### b. Barns/Aviaries

i. Flooring shall be such that minimizes claw injuries to birds.

ii. Flooring shall be designed so as to support forward facing claws.

iii. Perches shall be designed so as to minimize injury to the poultry.

##### c. Free Range

i. For those facilities with an indoor and outdoor component, openings shall be designed so as to facilitate movement of the poultry in a manner that minimizes injury and death to the poultry.

#### B. Nutrition and Water

1. All poultry shall be provided sufficient food daily so as to maintain good health, meet their physiological requirements, and minimize nutritional or metabolic disease (see exceptions).

2. All poultry shall have continual access to water so as to maintain adequate hydration (see exceptions).

3. All food and water shall be provided in means that minimize aggression or competition.

4. Any mechanical devices used to deliver feed or water shall be kept clean so as to minimize the spread of infectious disease and shall be regularly inspected to ensure proper function.

5. Poultry shall be regularly monitored, and those found not to be consuming adequate food or water shall be removed and either raised alternatively or euthanized.

6. Exception. Food and water may be temporarily withheld up to 48 hours-as prescribed by the NCC, allowing for five days feed, and two skipped days, along with limitation of water when handling, performing management practices, treating, transporting, or depopulating poultry.

#### C. Health and Veterinary Care

1. Disabled poultry shall be removed from their environment in a timely fashion to minimize compromise to their health and have remedial action taken, including euthanasia.

2. Any dead poultry shall be removed from any facilities and disposed of according to LDAF protocols so as to minimize the spread of infectious disease between poultry and so as to minimize pests.

#### D. Handling

1. Poultry shall be caught and handled so as to minimize stress, risk of injury, and risk of exhaustion.

a. Poultry shall never be picked up by a single wing.

2. Only the minimum force necessary shall be used to move or restrain poultry.

3. All equipment used to move or restrain poultry shall be designed and maintained so as to minimize stress, risk of injury, risk of exhaustion, risk of heat stress.

4. Poultry that are seriously injured during handling (such as, but not limited to, broken legs) shall have remedial action taken, including euthanasia.

#### E. Hatching, and Chick/Poult Management

1. All chicks/poults shall have access to adequate nutrition and water within 48 hours of hatching or have other remedial action taken.

2. Environmental temperature control and air flow control shall be present before arrival of new chicks/poults into an area and maintained for newly placed chicks/poults so as to support normal body temperature and minimize health compromise.

#### F. Animal Husbandry Procedures

1. Certain animal husbandry procedures include, but are not limited to, beak trimming, male claw removal, and dubbing.

a. Animal husbandry procedures shall be performed at an age and physiologic state so as to minimize pain and distress.

i. Beak trimming shall be performed by or before 10 days of age.

ii. Male claw removal and dubbing (in commercial operations) shall be performed by or before 3 days of age.

b. Necessary stressful procedures include induced molting.

i. Induced molting shall be performed and birds sufficiently supervised to prevent health compromise, weight loss, and flock mortality.

## G. Transportation

### 1. Transportation by land shall:

- a. have stocking density that allows all poultry to lie down simultaneously without being forced to lie on top of other poultry;
- b. have transportation vehicle design, maintenance, arrangement of poultry, and time of transport to minimize injury, distress, or death to the poultry;
- c. have vehicle transporting poultry designed to provide adequate ventilation to minimize injury, distress, heat or cold stress, or death to the poultry;
- d. have crates or other devices used to transport poultry designed to minimize injury and movement must allow poultry to rapidly reposition in an upright position.

## H. On-Farm Euthanasia

1. The following methods of euthanasia shall be approved for on-farm use:

- a. carbon dioxide;
- b. cervical dislocation;
- c. cecapitation;
- d. water based foam for mass euthanasia;
- e. instantaneous fragmentation may be used for one day old chicks and poults, and for pipped and embryonated eggs. Sufficient flow to and through the instantaneous fragmentation device shall prevent backlog at the point of entry to the device;
- f. barbiturate overdose is an acceptable form of euthanasia administered by a licensed veterinarian or other licensed professional.

2. The carcasses of all poultry shall be disposed of in a sanitary manner by cremation or burial of at least six feet according to RS 3:2131 or by following LAC 7:XXI.Chapter 7, Sanitary Disposal of Dead Poultry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

### **§3115. Emergency Standards**

A. Standards for management and destruction of animals during an emergency may be extended during a declared disaster or animal disease event. In such cases mass euthanasia may be necessary.

1. Mass euthanasia shall be used for unusual conditions which require depopulation, such as wide spread disease eradication and exigent circumstance resulting from natural disasters; the state veterinarian may authorize alternate methods if necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

### **§3117. Accepted Methods for Mass Euthanasia**

#### A. Inhalant Agents

##### 1. Carbon Dioxide (CO<sub>2</sub>)

- a. Compressed CO<sub>2</sub> gas in cylinders shall be the only allowed source of carbon dioxide.
- b. Gas concentration shall be maintained for at least one minute after death.
- c. CO<sub>2</sub> shall be the only chemical to be used for euthanasia of animals intended for human or animal consumption.

## B. Injectable Euthanasia Agents

1. All injectable agents, including all barbiturate derivatives, shall be used by or under the direct supervision of a licensed veterinarian.

## C. Physical Methods

### 1. Penetrating Captive Bolt

a. Captive bolt guns shall be powered by gunpowder or compressed air and shall provide sufficient energy to penetrate the skull of the species on which they are being used.

b. Penetrating captive bolt shall be suitably placed so that the projectile sufficiently disrupts a cerebral hemisphere and the brain stem causing a sudden loss of consciousness and resulting in humane death.

c. The penetrating captive bolt gun shall be held firmly against the head.

d. All manufacturers' directions regarding caliber and powerload shall be followed.

### 2. Non-Penetrating Captive Bolt

a. The non-penetrating captive bolt does not have a projectile, is powered by gunpowder or compressed air, and shall deliver a percussive blow which produces unconsciousness.

b. The non-penetrating captive bolt gun shall be held firmly against the head and shall not be used as a sole means of euthanasia, except for animals weighing equal to or less than 12 pounds and poultry.

c. All manufacturers' directions regarding caliber and powerload shall be followed.

### 3. Blunt Force Trauma

a. A single decisive blow shall produce immediate depression of the central nervous system and destruction of brain tissue resulting in rapid unconsciousness and humane death.

### 4. Gunshot

a. Shooting shall only be performed by personnel proficient in the use of firearms and only in jurisdictions that allow legal firearm use. Personnel, the public, and nearby animal safety and well-being shall be considered as well as control of the animal whenever feasible.

b. Gunshot shall utilize bullets of suitable caliber that depend on the size of the animal to be euthanized and that expand on impact. The projectile shall enter the brain causing instant loss of consciousness and humane death.

c. Ammunition for most animals shall be a minimum caliber .22 hollow point for long rifles. For large mature animals, such as cattle and swine, the minimum caliber shall be .22 magnum hollow point for long rifles.

d. The gun shall be held as close as reasonably possible but not less than 2 inches from the head of the animal.

5. *Cervical Dislocation*—the manual stretching or instrument assisted separation of the cervical vertebrae from the skull.

6. *Decapitation*—the rapid separation of the head from the neck.

### 7. Electrocutation

a. One-step electrocution shall use alternating current applied to the head and the opposite side of the body behind the heart at the flank skin fold, causing simultaneous stunning and inducing cardiac fibrillation resulting in cerebral hypoxia.

b. Two-step stunning and electrocution shall first render the animal unconscious by passing an alternating current across the head and followed immediately, in less than 15 seconds, by passing the current from the head to the opposite side of the body behind the heart.

8. *Foam*—a water-based product utilizing a specialized delivery system that produces foam of the appropriate consistency to occlude the upper respiratory tract causing hypoxia in a rapid and humane manner.

9. *Maceration*—the use of a mechanical apparatus having rotating blades or projections that causes immediate fragmentation and death.

10. *Exsanguination*—to drain of blood as a stand-alone method of euthanasia shall be limited to use for ritual slaughter pursuant to ORC Chapter 945.01 and 945.02. Exsanguination may be used to ensure death subsequent to stunning or in otherwise unconscious animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:

#### **Family Impact Statement**

It is anticipated that the proposed action will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed action.

#### **Poverty Impact Statement**

It is anticipated that the proposed action will have no significant effect on:

1. household income, assets, and financial security
2. early childhood or educational development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act (R.S. 49:965.2-965.8). The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to John Walther, Assistant Commissioner, Office of Animal Health and Food Safety, Director of Veterinary Health Division, Department of Agriculture and Forestry; telephone (225) 922-1234; fax

(225) 923-4783; mailing address, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on September 27, 2013. No preamble regarding the proposed action is available.

Mike Strain, DVM  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Animal Care Standards**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed action is not anticipated to have a material effect on governmental costs or savings.

La. R.S. 3:2095.1 mandates that the Board of Animal Health, subject to the approval of the Commissioner of Agriculture and Forestry, adopt standards applicable to the care and well-being of bovine, equine, ovine, caprine, porcine, and poultry bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. These standards of care are necessary because the statute prohibits any municipality, parish, local governmental entity or governing authority of any group or association, private or public, having jurisdiction over a specific geographic area from enacting any ordinance, law, subdivision restriction or regulation that establish standards of care applicable to these categories of animals unless the ordinance, regulation or restriction has been reviewed by the board and approved by the commissioner. Review and approval cannot occur until these standards of care have been promulgated in accordance with the APA. The standards of care proposed for adoption have been approved by the commissioner.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule action is not anticipated to have a material effect on governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

If a local ordinance, regulation, or restriction regarding livestock covered by the proposed action is found by the commissioner of agriculture and forestry not to be in conflict with the animal care standards established by the proposed action, there would be no indirect cost or benefit to an affected agricultural producer since the local ordinance, regulation, or restriction would be outside of the jurisdiction of the commissioner. If, however, the commissioner does not approve a local ordinance, regulation, or restriction because it conflicts with the animal care standards established by the proposed action then an affected livestock producer would receive an indirect benefit because he would not have to bear the cost of complying with the ordinance, regulation, or restriction.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed action is not anticipated to have a material effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1308#040

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of the Commissioner

#### Tuberculosis Testing in Cervids (LAC 7:XXI.1515)

Under the enabling authority of R.S. 3:3101 and in accordance with the Administrative Procedures Act (R.S. 49:950 et seq.) the Department of Agriculture and Forestry is intending on amending the rule(s) and regulation(s) (“the proposed action”) set out below.

The current regulation limits the test for tuberculosis in cervids to the tuberculin skin test provided for in the United States Department of Agriculture’s *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*. Advancements in veterinary medicine have allowed the development of a serological or blood test for tuberculosis in cervids. The proposed action provides owners of alternative livestock and treating veterinarians the opportunity to use USDA-approved serological tests for tuberculosis in cervids.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer

#### §1515. Health Certificates and Health Requirements

A. - A.3. ...

4. have written proof of a negative tuberculin skin test or a serological test for tuberculosis that meets the following requirements;

a. the tuberculin skin test or serological test for tuberculosis is one of the official tuberculosis tests approved by the U.S. Department of Agriculture for use on the species of alternative livestock for which permission to enter the state is being sought;

b. the test was administered and read in accordance with the USDA requirements for the administering and reading of that test;

A.5 - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 39:

#### Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed action.

#### Poverty Impact Statement

It is anticipated that the proposed action will have no significant effect on:

1. household income, assets, and financial security
2. early childhood or educational development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act (R.S. 49:965.2-965.8). The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to John Walther, Assistant Commissioner, Office of Animal Health and Food Safety, Director of Veterinary Health Division, Department of Agriculture and Forestry; telephone (225) 922-1234; fax (225) 923-4783; mailing address, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on September 27, 2013. No preamble regarding the proposed action is available.

Mike Strain, DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Tuberculosis Testing in Cervids

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action is not anticipated to have a material effect on governmental costs or savings.

The current regulation limits the test for tuberculosis in cervids to the tuberculin skin test provided for in the United States Department of Agriculture’s *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*. Advancements in veterinary medicine have allowed the development of a serological or blood test for tuberculosis in cervids. The proposed action provides owners of alternative livestock and treating veterinarians the opportunity to use USDA approved serological tests for tuberculosis in cervids.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a material effect on governmental revenues.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The anticipated economic benefits to owners of alternative livestock who employ serological tests for tuberculosis will be lower costs of up to \$200 per animal tested for tuberculosis. A tuberculin skin test requires animals to be sedated and tested, which requires extensive labor. The serological test

substantially reduces or eliminates the need for sedation and the work needed to conduct the test, all of which saves on labor costs. An additional benefit is reduced risk of mortality in animals caused by reactions to sedation and the stress caused by the skin testing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a material effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1308#042

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Civil Service  
Board of Ethics**

**Food and Drink Limit (LAC 52:I.1703)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to make amendments to the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Section 1115.1C of the Code of Governmental Ethics.

**Title 52  
ETHICS**

**Part I. Board of Ethics**

**Chapter 17. Code of Governmental Ethics**

**§1703. Food and Drink Limit**

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2013, the limit for food, drink or refreshments provided in R.S. 42:1115.1A and B is \$57.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010), LR 38:1951 (August 2012), LR 39:

**Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule changes have no impact on poverty, as described in R.S. 49:972.

**Small Business Statement**

The proposed Rule changes have no impact on adverse impact on small businesses as defined in the Regulatory Flexibility Act.

**Public Comments**

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on September 10, 2013.

Kathleen M. Allen  
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Food and Drink Limit**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the rule, which sets forth the amended monetary limit on the receipt of food and drink by a public servant and public employee, is \$168 in FY 13-14, which accounts for the cost to publish the Notice of Intent and the rule in the State Register. The proposed administrative Rule raises the monetary limit on the receipt of food and drink from \$56 to \$57 in FY 14.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The 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)

The proposed action will affect all public employees and public servants by setting a monetary limit on the receipt of food and drink.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have no anticipated effect on competition and employment.

Kristy F. Gary  
Deputy Administrator  
1308#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 126—Charter Schools**

(LAC 28:CXXXIX.103, 303, 306, 307, 503,507, 511, 517, 519, 701, 1101, 1303, 1503, 1601, 1703, 1903, 1905, 1907, 2105, 2501, 2905, 2911, and 3101)

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 126—Charter Schools*: §103, Definitions; §303, BESE Authorizing Responsibilities; §307, Local School Board Duties; §503, Eligibility to Apply for a Type 2 Charter School; §507, Existing Public Schools Converting to Charter Schools; §511, Charter School Application Process; §517, Consideration of Charter Applications and Awarding of Charters by BESE; §519, Local School Board Consideration of Charter Application, Awarding of Charters; §701, Charter School Contract with BESE; §1303, Extension Review; §1503, Charter Renewal Process and Timeline; §1601, School Closure Protocol; §1703, Revocation Proceedings; §1903, Material Amendments for BESE-Authorized Charter Schools; §1905, Non-Material Amendments for BESE-Authorized Charter Schools; §1907, Other Charter Amendments for BESE-Authorized Charter Schools; §2105, Board Member Training for BESE-Authorized Charter Schools; §2501, Qualified and

Competent Business Professional; §2905, Criminal History Review; §2911, Evaluation and Assessment; and §3101. The revisions align policy with recent changes to school accountability, streamline and update policies and correct technical errors.

## Title 28 EDUCATION

### Part CXXXIX. Bulletin 126—Charter Schools

#### Chapter 1. General Provisions

##### §103. Definitions

A. - A.2. ...

*Appropriate Technical Infrastructure*—any servers, programs, internet access, and/or management systems that allow user interaction, provide sufficient bandwidth to host courses or online services, and sustain peak periods of usage without a reduction in performance.

*At-Risk Pupil*—any pupil about whom at least one of the following is true:

i. is eligible to participate in the federal free or reduced lunch program by demonstrating that he meets the income requirements established for participation in the program, not necessarily by participating in the program;

ii. is under the age of 20 and has been withdrawn from school prior to graduation for not less than one semester;

iii. is under the age of 20 and has failed to achieve the required score on any portion of the examination required for high school graduation;

iv. is in the eighth grade or below and is reading two or more grade levels below grade level as determined by one or more of the tests required pursuant to R.S. 17:24.4;

v. has been identified as an exceptional child as defined in R.S. 17:1943 not including gifted and talented; or

vi. is the mother or father of a child.

*BESE and/or Board*—the state Board of Elementary and Secondary Education as created by the Louisiana Constitution and the *Louisiana Revised Statutes*.

*Charter*—the agreement and authorization to operate a *charter* school, which includes the *charter* contracts and exhibits, which incorporate the *charter* school application.

*Chartering Authority*—a local school board or the state Board of Elementary and Secondary Education.

*Charter Operator*—the nonprofit corporation or school board authorized to operate a charter school.

*Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana charter school law to provide a learning environment that will improve pupil achievement.

*Charter School Application*—the proposal submitted to BESE, which includes but is not limited to, responses to questions concerning:

- i. a charter school's education program;
- ii. governance, leadership, and management;
- iii. financial plan; and
- iv. facilities.

*Charter School Law*—Louisiana laws, R.S. 17:3971 et seq., governing the operation of a charter school.

*Core Subject*—shall include those subjects defined as *core subjects* in Bulletin 741.

*Department of Education or LDE or Department*—the Louisiana *Department of Education*. The *Department of*

*Education* includes the recovery school district, or RSD, where references are made to type 5 charter schools.

*Hearing Officer*—the individual assigned by BESE to perform adjudicatory functions at charter school revocation hearings.

*Instructional and Communication Hardware*—any equipment used to ensure students can access and engage with the educational program (e.g., headphones, wireless air cards, learning management systems, web-based communication tools).

*Instructional Coach*—a parent or guardian, extended adult family member, or other adult designated by the parent or guardian who works in person with each virtual charter school student under the guidance of the Louisiana-licensed professional teacher.

*Local School Board*—any city, parish, or other local education agency.

*Management Organization*—a for-profit company that manages academic, fiscal, and operational services on behalf of boards of directors of BESE-authorized charter schools through contractual agreements.

*Public Service Organization*—any community-based group of 50 or more persons incorporated under the laws of this state that meets all of the following requirements:

i. has a charitable, eleemosynary, or philanthropic purpose; and is qualified as a tax-exempt organization under Section 501(c) of the United States *Internal Revenue Code* and is organized for a public purpose.

*State Superintendent*—the superintendent of education, who is the chief administrative officer of the Louisiana Department of Education, and who shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

*Technical Access*—computer and internet availability sufficient to ensure access for all students.

*Virtual School*—an educational program operated for a minimum of one academic year and covering specified educational learning objectives for the purpose of obtaining a Louisiana certified diploma, the delivery of such a program being through an electronic medium such that the students are not required to be at a specific location in order to receive instruction from a teacher, but instead access instruction remotely through computers and other technology, which may separate the student and teacher by time and space. This does not preclude the ability of said program to host face-to-face meetings, including field trips, extracurricular activities, conferences between the student, parents, and teachers, or any such related events.

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 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:

#### Chapter 3. Charter School Authorizers

##### §303. BESE Authorizing Responsibilities

A. BESE, as the authorizer of type 2, type 4, and type 5 charter schools, has the following authorizing responsibilities:

1. to implement a comprehensive application process with fair procedures and rigorous criteria that results in



applications recommended for approval that demonstrate strong capacity for establishing and operating a quality charter school;

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, 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 39:

### **§306. Local School Board Authorizing Responsibilities**

A. Local school boards, as the authorizer of type 1 and type 3 charter schools, have the following authorizing responsibilities:

1. except as otherwise provided herein relating to local school systems in academic crisis, as defined in Bulletin 111, §4901, to review and formally act upon each charter proposal submitted in conducting such a review, the local school board shall determine whether each proposed charter complies with the law and rules, whether the proposal is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17:252, whether it provides a plan for collecting data in accordance with R.S. 17:3911, and whether it offers potential for fulfilling the purposes of the law;

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:868 (March 2011), amended LR 39:

### **§307. Local School Board Duties**

A. Local school boards have the following duties relating to charter schools:

1. to report any charter entered into to; 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 1B or 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. - 5.a. ...

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:

## **Chapter 5. Charter School Application and Approval Process**

### **§503. Eligibility to Apply for a Type 2 Charter School**

A. To be eligible to submit a type 2 charter school application, a group must:

1. - 4. ...

5. except as provided in Subsection B or C of this Section, has submitted a proposal for a type 1 or type 3 charter school to the local school board in whose jurisdiction the charter school is proposed to be located which:

a. has been denied, as evidenced by a motion or resolution of the local school board; or

b. has conditions that have been placed on it that are unacceptable to the group proposing the charter; or

c. the local school board has made no final decision in accordance with the timelines established by BESE for consideration of type 1 and 3 charter applications by local school boards; and

d. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. Applicants applying to operate a charter school which is to be located in a local school system in academic crisis, as defined in Bulletin 111, §4901, are not required to submit a type 1 charter application to such local school system and may submit a proposal for a type 2 charter school directly to BESE.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:

### **§507. Existing Public Schools Converting to Charter Schools**

A. - B. ...

C. Approval of the professional faculty and staff requires a favorable vote of the majority of the faculty and staff who are certified by BESE and who were employed at the pre-existing school. The number needed for approval shall be determined by the number of professional faculty and staff assigned to the pre-existing school on October 1 preceding the election.

1. - 4. ...

5. Type 2 conversion votes by professional faculty and staff will follow the process established by the department.

D. Approval by the parents or guardians requires a favorable vote of the majority of the voting parents or guardians of pupils enrolled in the school.

1. - 3. ...

4. Type 2 conversion votes by parents or guardians will follow the process established by the department.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 39:

### **§511. Charter School Application Process**

A. - A.5. ...

B. Competitive Process

1. The charter application process shall be a competitive process whereby any entity meeting eligibility requirements may be approved.

2. The charter application shall be in the form of a request for applications.

3. The release of a request for applications must include:

- a. public notice;
- b. notice to national, regional, and state organizations that support charter schools; and
- c. notice to all known interested parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 39:1431 (June 2013), LR 39:

### **§517. Consideration of Charter Applications and Awarding of Charters by BESE**

A. BESE shall consider each type 2 and type 4 charter school application and vote to approve or deny the application.

B. BESE shall consider each type 5 charter school application that is recommended by the state superintendent of education, based on a recommendation by the Department of Education, and may vote to approve or deny the recommended application.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:870 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 39:

### **§519. Local School Board Consideration of Charter Application, Awarding of Charters**

A. Local school boards shall carefully review each type 1 and type 3 charter school application they receive and may approve a charter application only after it has made a specific determination that the determine whether each proposed charter complies with the law and rules, whether the proposal is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17:252, whether it provides a plan for collecting data in accordance with R.S. 17:3911.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 37:2385 (August 2011), amended LR 39:

### **Chapter 7. Charter School Performance Contract**

#### **§701. Charter School Contract with BESE**

A. ...

B.1. The charter school contract shall define the performance standards to which the charter school will be held accountable and the general terms and conditions under which the charter school will operate. The charter school contract template shall include, but not be limited to:

- a. provisions regarding the establishment of the charter school;
- b. the operation of the charter school;
- c. charter school financial matters;
- d. charter school personnel;
- e. charter term, renewal and revocation; and
- f. other provisions determined necessary by BESE.

2. The charter school contract shall also include exhibits that provide detailed information about the terms and conditions under which the school will operate.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:

### **Chapter 11. Ongoing Review of Charter Schools**

#### **§1101. Charter School Evaluation**

A. - C. ...

D. In measuring the organizational and financial performance of schools as part of the charter school performance compact, charter schools will be given one of the following ratings:

1. meets expectations;
2. approaches expectations;
3. fails to meet expectations.

E. - I.4. ...

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 34:1363 (July 2008), amended LR 37:871 (March 2011), repromulgated LR 37:1124 (April 2011), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1433 (June 2013), LR 39:

### **Chapter 13. Charter Term**

#### **§1303. Extension Review**

A. ...

B. Each type 2, type 4, and type 5 charter school's extension review shall be used to determine if the school will receive a one-year extension, as follows.

1. Contract Extension

a. Each charter school shall be reviewed based on academic, financial, and legal and contractual performance data collected by the Department of Education. If such performance data reveal that the charter school is achieving the following goals and objectives, the board shall extend the duration of the charter for a maximum initial term of five years.

i. For the December 2013 extension process, a charter school shall have:

(a) a financial risk assessment that has not been deemed to require "dialogue" as set forth in §1101.E; and

(b) no violation of legal or contractual standards as defined in §1101.I.3;

(c) one of the following student performance standards:

(i) school has earned a D letter grade or higher based on performance data from the school's third year of operation based on the letter grade from the 2013 annual SPS or the letter grade from the 2012 transition baseline SPS;

(ii). the assessment index based on performance data from the school's third year of operation from either the 2013 annual SPS or the 2012 transition baseline SPS is the equivalent of a D letter grade or higher; or

(iii). the assessment index based on performance data from the school's third year of operation has increased 15 or more points from the pre-assessment index on the 200 point scale.

- 2. - 2.a.ii. ...
- 3. Probationary Extension
  - a. - a.ii. ...

b. If, upon consideration for initial renewal, a charter school placed on probationary extension has not resolved all of the issues related to its probation status, the state superintendent may recommend that the board deny the charter school's request for renewal.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:2387 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1435 (June 2013), LR 39:

**Chapter 15. Charter Renewal**  
**§1503. Charter Renewal Process and Timeline**

A. - B.1.a. ...

2. Consistent with the philosophy of rewarding strong performance and providing incentives for schools to strive for continual improvement, the renewal terms for BESE-authorized charter schools will be linked to each school's letter grade (based on the school's performance on the state assessment in the year prior to the renewal application) in accordance with the table that follows.

a. For the December 2013 renewal process, the 2013 annual SPS letter grade and the following table will be used.

Maximum Charter Renewal Terms	
Letter Grades	Maximum Renewal Term
F	3 years
D	3 Years
C	5 Years
B	10 Years
A	10 years

b. For the December 2014 and future renewal processes, the annual SPS letter grade and the following table will be used.

Maximum Charter Renewal Terms	
Letter Grades	Maximum Renewal Term
F	3 years
D	3 Years
C	6 Years
B	7 Years
A	10 years

3. A charter school in its initial term where fewer than 50 percent of its enrolled grades are testable under state accountability will be eligible for a renewal term of three years.

4. For the December 2013 renewal process, a BESE-authorized charter school receiving a letter grade of F based

on the 2013 annual SPS, based on performance on the state's assessment and accountability program based on year four test data (or the year prior to the submission of a renewal application for subsequent renewals) will not be eligible for renewal, unless one of these conditions are met.

a. A charter school that by contract serves a unique student population where an alternate evaluation tool has been established between the charter operator and the board may be renewed for a term not to exceed five years.

b. A charter school in its initial term that has earned a letter grade of F based on the 2013 annual SPS and has earned a letter grade of D or higher based on the 2012 transition baseline SPS may be renewed for a term not to exceed three years.

c. A charter school in its initial term that has a letter grade of F based on the 2013 annual SPS and a letter grade of F based on the 2012 transition baseline SPS may be renewed for a term not to exceed three years if it met its 2012 growth target at the end of year four or if it has a F letter grade based on the 2013 growth SPS.

d. A charter school in its initial term that has a letter grade of F based on either the 2013 annual SPS system or the 2012 transition baseline SPS, but where fewer than 30 percent of its enrolled grades are testable under state accountability, may be renewed for a term not to exceed three years.

e. If, in the superintendent's judgment, the non-renewal of a charter school with a letter grade of F based on either the 2013 annual SPS or 2012 transition baseline SPS in its initial charter term would likely require many students to attend lower performing schools, and the superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.

f. The school has made 20 points of assessment index growth from its pre-assessment index on the 200 point scale.

**C. Financial Performance**

1. Each charter operator is required to engage in financial practices, financial reporting, and financial audits to ensure the proper use of public funds and the successful fiscal operation of the charter school. The charter school shall be evaluated using the financial risk assessment and the financial indicators included in the charter school performance compact. For the December 2013 renewal process, only the financial risk assessment will be used to evaluate schools.

2. ...

3. BESE Standards for Financial Performance. BESE may reduce the renewal term by a year for any charter school that has been found to require monitoring or "dialogue" as part of their most recent fiscal risk assessment. No term shall be less than three years.

**D. Organizational Performance**

1. - 2. ...

3. BESE will not renew a charter if it has failed to demonstrate over the term of its contract, the fundamental ability to adhere to the statutory, regulatory, contractual obligations, reporting requirements, and organizational

performance standards articulated above and/or in the charter school performance compact.

E. Initial Renewal for BESE-Authorized Charter Schools

1. - 2. ...

3. Based on the school’s academic, financial, and contractual performance, the state superintendent of education may recommend one of three actions:

- a. renewal for the maximum term identified in the maximum charter renewal terms table;
- b. renewal for a shorter term (based on deficiencies in financial and/or legal/contract performance, although not to be less than three years); or
- c. non-renewal.

E.4. - F.4. ...

G. Automatic Renewal of Charter Schools

1. ...

2. A charter school that meets the following conditions shall be automatically renewed and shall be exempted from the renewal process requirements listed in Subsection E or F of this Section, as appropriate:

a. For the December 2013 renewal process, the school’s 2013 Annual SPS letter grade will be used as the school’s current school performance Label and the table below will be used for automatic renewals.

iv. has received a “meets expectations” designation in its most recent evaluation in financial performance according to the charter school performance compact.

3. The automatic renewal term shall be in line with the terms specified in Paragraph B.2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:

**Chapter 16. School Closure**

**§1601. School Closure Protocol**

A. In the event a BESE-authorized charter school closes permanently for any reason, the school shall adhere to the school closure protocol developed by the Department of Education.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:

**Chapter 17. Revocation**

**§1703. Revocation Proceedings**

A. Recommendation to Revoke Charter for BESE-Authorized Charter Schools

1. A recommendation to revoke a charter shall be made to BESE by the state superintendent of education based on information provided by the Department of Education, at least one BESE meeting prior to the BESE meeting at which the recommendation may be considered, except as otherwise provided herein when the health, safety, and welfare of students is at issue.

A.2. - G.4. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1368 (July 2008), amended LR 37:872 (March 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012). amended LR 39:

**Chapter 19. Amendments to BESE-Authorized Charters**

**§1903. Material Amendments for BESE-Authorized Charter Schools**

A. A material amendment to a charter is an amendment that makes substantive changes to a charter school’s governance, operational, or academic structure. Material amendments include:

- 1. changes in legal status or management, including the structure of the governing board, a corporate partnership, or assignment of or changes in management organization;
- 2. changes in grade levels served;
- 3. changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school’s charter, applicable;
  - a. the superintendent of the recovery school district is authorized to amend the charter of any type 5 charter school participating in a unified enrollment system administered by the recovery school district for the purpose of adjusting student enrollment limitations;
- 4. changes in admission procedures or criteria, if applicable;

Current School Performance Label	Other Requirements (must meet all)	Eligibility
F	Not applicable	Not eligible for automatic renewal
D	<ul style="list-style-type: none"> <li>• 10 points of academic growth in past 2 years</li> <li>• no violations of legal or contractual standards, as defined in §1101.F.3.; and</li> <li>• No issues requiring “Dialogue” in two most recent Financial Risk Assessments</li> </ul>	Will be automatically renewed
C	<ul style="list-style-type: none"> <li>• 5 points of academic growth in past 2 years</li> <li>• no violations of legal or contractual standards, as defined in §1101.F.3.; and</li> <li>• No issues requiring “Dialogue” in two most recent Financial Risk Assessments</li> </ul>	Will be automatically renewed
B or A	<ul style="list-style-type: none"> <li>• Academic improvement over charter term</li> <li>• no violations of legal or contractual standards, as defined in §1101.F.3.; and</li> <li>• No issues requiring “Dialogue” in two most recent Financial Risk Assessments</li> </ul>	Will be automatically renewed

b. For the December 2014 and future renewal processes:

- i. has received a letter grade of A or B;
- ii. has demonstrated growth in student academic achievement as measured by an increasing school performance score over the three preceding school years;
- iii. has received a “meets expectations” designation in its most recent evaluation in organizational performance according to the charter school performance compact; and

5. changes in any option expressed in the charter contract exhibit with respect to collective bargaining; and

6. any changes to the charter contract not specifically identified as non-material amendments.

B. ...

C. The charter operator shall submit a request for a material amendment to its charter in compliance with all timelines and pursuant to all guidance, forms, and/or applications developed and set forth by the Department of Education.

D. - E.3.c. ...

F. When time is of the essence and circumstances require immediate consideration of a material amendment request, a committee composed of the state superintendent, BESE president, and School Innovation and Turnaround Committee shall have interim authority to consider material amendment requests. All approvals or denials of material amendment requests pursuant to this Subsection shall be ratified by BESE at the following BESE meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008), amended LR 37:873 (March 2011), LR 37:2389 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3120 (December 2012), LR 39:

#### **§1905. Non-Material Amendments for BESE- Authorized Charter Schools**

A. A non-material amendment to a charter is an amendment that makes non-substantive changes to a school's charter. Non-material amendments include:

1. changes to the mailing address, telephone, and/or facsimile number of the charter school;

2. changes to the designated contact person for the charter operator or changes to the contact person located at the charter school site; and

3. changes in any option expressed in the charter contract exhibits with respect to Teachers' Retirement System of Louisiana.

B. A non-material amendment will be effective following approval by the board of directors of the charter school.

C. The charter operator shall provide the Department of Education with written notification of a non-material amendment to its charter within five days of board approval in compliance with all requirements set forth by the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), LR 39:

#### **§1907. Other Charter Amendments for BESE- Authorized Charter Schools**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), repealed LR 39:

#### **Chapter 21. Charter School Governance**

##### **§2105. Board Member Training for BESE-Authorized Charter Schools**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), Amended LR 37:874 (March 2011), repealed LR 39:

#### **Chapter 25. Charter School Fiscal Responsibilities §2501. Qualified and Competent Business Professional**

A. ...

B. A qualified and competent business professional shall meet one of the qualifications as listed in Bulletin 1929, §1301.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 38:3120 (December 2012), LR 39:

#### **Chapter 29. Charter School Staff §2905. Criminal History Review**

A. - A.3. ...

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:587.1 shall be hired by a public elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

C. ...

D. A charter operator may reemploy a teacher or other school employee who has been convicted of, or pled *nolo contendere* to, a crime listed in R.S. 15:587.1(c), except R.S. 14:74, only upon written approval of the district judge and the district attorney of the parish or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

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 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:

#### **§2911. Evaluation and Assessment**

A. Each charter operator shall annually evaluate every teacher and administrator employed at its charter schools using the value-added assessment model and measures of student growth as determined by the State Board of Elementary and Secondary Education pursuant to R.S. 17:3902(B)(5) and comply with all other such requirements specified in R.S. 17:3997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008), amended LR 39:

**Chapter 31. Notification Requirements for BESE-  
Authorized Charter Schools**

**§3101. Required Notifications**

A. The charter operator shall notify the Department of Education in a timely manner of any conditions that may cause it to vary from the terms of its charter, state law, or BESE policy.

B. The charter operator shall notify the Department of Education of any circumstance requiring the closure of the charter school including, but not limited to:

1. a natural disaster, such as a hurricane, tornado, storm, flood or other weather related event;
2. other extraordinary emergency; or
3. destruction of or damage to the school facility.

C. The charter operator shall notify the Department of Education of the arrest of any members of the charter school's board of directors, employees, contractors, subcontractors, or any person directly or indirectly employed by the charter operator for a crime listed in R.S. 15:587.1(C) or any crime related to the misappropriation of funds or theft.

D. The charter operator shall notify the Department of Education of a default on any obligation, which shall include debts for which payments are past due by 60 days or more.

E. The charter operator shall notify the Department of Education of any change in its standing with the office of the Louisiana Secretary of State.

F. The charter operator shall notify the Department of Education no later than the end of the calendar month if its enrollment decreases by 10 percent or more compared to the most recent pupil count submitted to the Department of Education and/or BESE.

G. If the charter operator has contracted with a management organization and such contract is terminated or not renewed, it shall provide written notification to the Department of Education within two business days stating the reasons for the termination of the relationship.

H. For a type 5 charter school, the charter operator shall submit a formal plan for the continued operation of the school to the state superintendent of education within 10 days of written notification of the contract's termination. If no plan is received or the plan received is deemed inadequate by the state superintendent of education, the recovery school district shall have interim authority to operate the school until the charter operator resubmits a plan deemed acceptable by the superintendent.

I. Failure of the board to notify the Department of Education about loss of the management organization within two business days may result in BESE rendering the charter operator or a majority of its board members ineligible to operate a charter school for up to five years.

J. The charter operator shall notify the Department of Education should the president of the charter school's governing board change. Such notification shall be made within two business days of the official board action taken on this matter.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008), amended LR 37:876 (March 2011), LR 39:

**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 Statement**

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.

## Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 126—Charter Schools**

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy change will not result in any costs or savings to state or local governmental units.

The proposed changes align policy with recent changes to school accountability, streamline and update policies, and correct technical errors.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1308#017

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 135—Health and Safety  
Diabetes Management and Treatment  
(LAC 28:CLVII.307)

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 35—Health and Safety* §307, Diabetes Management and Treatment. The revision addresses parental responsibility for a student's diabetes care.

## Title 28 EDUCATION

### Part CLVII. Bulletin 135—Health and Safety

#### Chapter 3. Health

#### §307. Diabetes Management and Treatment

NOTE: This rule was developed in coordination with the Louisiana State Board of Nursing (LSBN). Any waivers, deletions, additions, amendments, or alterations to this policy shall be approved by both BESE and LSBN.

A. -A.5.a. ...

6. The parent or legal guardian shall be responsible for all care related to the student's diabetes management and treatment plan until all authorized physicians orders, parent

authorization, and all medical supplies deemed necessary to care for the student in the school setting have been received by the school nurse.

7. The school nurse shall be responsible for implementing and/or supervising the diabetes management and treatment plan for the student on campus, during school related activities, and during school related transportation of the student for the current year.

B. - I.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Board of Nursing, LR 39:1033 (April 2013), amended LR 39:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### Small Business Statement

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.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Bulletin 135—Health and Safety Diabetes Management and Treatment**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy change will not result in any costs or savings to state or local governmental units.

The proposed policy change addresses parental responsibility for a student's diabetes treatment.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1308#018

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for  
School Administrators (LAC 28: CXV.1301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1301, Disciplinary Regulations. The revision allows more local flexibility in determining suspensions.

#### Title 28 EDUCATION

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 13. Discipline

#### §1301. Disciplinary Regulations

A. - F. ...

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work if it is completed satisfactorily and timely as determined by the principal or designee, upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled and receives educational services in an alternative school site, shall be assigned school work by a certified teacher and shall receive credit for school work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

H. - K.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:1132, 1133 (April 2011), LR 39:476 (March 2013), LR 39:

#### 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 Statement

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.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy change will not result in any costs or savings to state or local governmental units.

The proposed policy change allows more local flexibility in determining suspensions.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1308#019

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for  
Nonpublic School Administrators—Programs of Study  
(LAC 28:LXXIX.107)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study: §107, School Approval*. The revision adds two classifications of approved nonpublic schools.

## Title 28 EDUCATION

### Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study Chapter 1. Operation and Administration §107. School Approval

A. - D. ...

E. Classification Categories. Schools shall be classified according to the following categories:

1. approved (A)—school meets all standards specified in standards for approval of nonpublic schools. There shall be two types of approved schools:

a. accredited approved school—school is:

i. currently accredited by the Southern Association of Colleges and Schools (SACS); or

ii. currently accredited by a member the National Association of Independent Schools (NAIS); and

iii. the school meets all other criteria established by this bulletin for Board of Elementary and Secondary Education (BESE) approval;

iv. the LDE may also accept accreditation from other school accreditation agencies, but may require the submission of additional information from the school so as to ensure consistent quality;

b. non-accredited approved school—school is not currently accredited by SACS or a member of NAIS, but has met all criteria established by this bulletin for approval;

c. Louisiana Montessori accredited approved school—school meets the Louisiana Montessori Association's accreditation requirements and all other approval criteria established by this bulletin for Board of Elementary and Secondary Education (BESE) approval.

d. Louisiana Montessori provisionally accredited approved school—school is working toward meeting the Louisiana Montessori Association's accreditation requirements and has meet all other approval criteria established by this bulletin for Board of Elementary and Secondary Education (BESE) approval;

2. registered—school is not accredited by SACS or NAIS and has not met the criteria established by the department for approval, or does not wish to seek state approval.

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003), amended LR 31:3073 (December 2005), LR 36:2847 (December 2010), LR 37:2145 (July 2011), LR 39:

#### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

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.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 741—Louisiana Handbook for Nonpublic School Administrators**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy change will not result in any costs or savings to state or local governmental units.

The proposed policy change adds two classifications of approved nonpublic schools.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1308#020

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Environmental Quality Office of the Secretary Legal Division**

Air Regulations  
(LAC 33:III.2511, 5113, and 5308)(AQ341)

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.2511, 5113, and 5308 (AQ341).

This Rule will correct and revise language that is inaccurate or unnecessary. In previous rulemaking, language was inadvertently added to two Sections of the Air regulations. This Rule will delete the repetitive language. The basis and rationale for this Rule are to correct regulation language that is inaccurate and/or repetitive. 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 25. Miscellaneous Incineration**

#### **Subchapter B. Biomedical Waste Incinerators**

#### **§2511. Standards of Performance for Biomedical Waste Incinerators**

A. - E.8. ...

F. Radioactive Materials. Incineration of radioactive materials shall comply with the requirements of LAC 33:XV.463.

G. - L. ...

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 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000),

amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter A. Applicability, Definitions, and General Provisions**

**§5113. Notification of Start-Up, Testing, and Monitoring**

Editor's Note: Repealed.

A. - C.4. ...

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Services for approval a plan describing the affected emission units and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. - 7. ...

8. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 33:2094 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2744, 2755 (November 2012), LR 39:

**Chapter 53. Area Sources of Toxic Air Pollutants**  
**Subchapter A. Reserved.**

**§5308. Reporting Requirements**  
**[Formerly §5307]**

Repealed.

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 20:431 (April 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2450 (October 2005), LR 33:2096 (October 2007), amended by the Office of the Secretary, Legal Division LR 38:2755 (November 2012), repealed LR 39:

**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.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ341. Such

comments must be received no later than October 2, 2013, 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 email 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 AQ341. These proposed regulations are available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

**Public Hearing**

A public hearing will be held on September 25, 2013, 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, CPM  
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Air Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local government units as a result of the proposed Rule change. The proposed Rule corrects errors that have been discovered in the *Environmental Regulatory Code*. Typographical errors will be corrected and language found to be redundant or repetitive will be removed.

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 are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed Rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of this proposed Rule change.

Herman Robinson, CPM  
Executive Counsel  
1308#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

Department of Environmental Quality  
Office of the Secretary  
Legal Division

CAFO Rule Update (LAC 33:IX.2505)(WQ087)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2505 (WQ087).

This Rule removes the vacated portions of the 2008 CAFO Rule (77 FR 44494), which required CAFOs that propose to discharge to apply for an NPDES permit. The requirement for a concentrated animal feeding operation (CAFO) to apply for an LPDES permit will revert back to the 2003 CAFO rule, where the CAFO must obtain an LPDES permit if the CAFO discharges a regulated wastewater. The vacated elements include:

1). the requirement for CAFOs that are "designed, constructed, operated or maintained such that a discharge of regulated wastewater will occur" to apply for an LPDES permit (LAC 33:IX.2505.D.1);

2). deadlines for CAFO operators to seek coverage (LAC 33:IX.2505.F);

3). the duty to maintain permit coverage (LAC 33:IX.2505.G); and

4). the no discharge certification option (LAC 33:IX.2505.I).

On July 30, 2012, EPA published a final Rule amending the regulations eliminating the requirement where an owner or operator of a concentrated animal feeding operation (CAFO) that proposes to discharge must apply for a national pollutant discharge elimination system (NPDES) permit. This Rule also removed the voluntary certification option for an unpermitted CAFO since the "propose to discharge" requirement renders the certification option unnecessary. The certification option allowed CAFO owners and operators to certify that if they discharge, they must seek permit coverage. Since specific date deadlines have passed, timing requirements related to when CAFO operators must seek coverage under an NPDES permit renewal were removed. EPA's final Rule is due to the United States Court of Appeals for the Fifth Circuit (the court) opinion that vacated those portions of the 2008 CAFO Rule requiring a CAFO to apply for an NPDES permit if they proposed to discharge. *National Pork Producers Council v. EPA*, 635 F.3d 738, 756 (5th Cir. 2011). The basis and rationale for this Rule is to be consistent with the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part IX. Water Quality

#### Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

#### Chapter 25. Permit Application and Special LPDES Program Requirements

#### §2505. Concentrated Animal Feeding Operations (CAFO)

A. Permit Requirement for CAFOs. *Concentrated animal feeding operations (CAFO)*, as defined in Subsection B of this Section or designated in accordance with Subsection C of this Section, are point sources, subject to LPDES permitting requirements as provided in this Chapter. Once an animal feeding operation is defined as a CAFO for at least one type of animal, the LPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

B. - C.3.b. ...

D. Who shall seek coverage under an LPDES permit?

1. The owner or operator of a CAFO shall seek coverage under an LPDES permit if the CAFO discharges a regulated wastewater. Specifically, the CAFO owner or operator shall either apply for an individual LPDES permit or submit a notice of intent for coverage under an LPDES general permit. If the state administrative authority has not made a general permit available to the CAFO, the CAFO owner or operator shall submit an application for an individual permit to the state administrative authority.

2. Information to Submit with Permit Application or Notice of Intent. An application for an individual permit shall include the information specified in LAC 33:IX.2501. A notice of intent for a general permit shall include the information specified in LAC 33:IX.2501 and 2515.

E. - E.2. ...

F. By when shall the owner or operator of a CAFO have an NPDES permit if it discharges?

1. A CAFO shall be covered by a permit at the time that it discharges.

G. Reserved.

H. - H.2....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), LR 29:1463 (August 2003), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:819 (May 2006), LR 33:2360 (November 2007), LR 35:648 (April 2009), amended by the Office of the Secretary, Legal Division, LR 39:

#### 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.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ087. Such comments must be received no later than October 2, 2013, 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 email to [deidra.johnson@la.gov](mailto: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 WQ087. These proposed regulations are available on the internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

### Public Hearing

A public hearing will be held on September 25, 2013, 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, CPM  
Executive Counsel

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: CAFO Rule Update

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed Rule change. The proposed Rule currently affects only one horse racing facility in the state, and the Louisiana Department of Environmental Quality anticipates that few concentrated animal feed operations (CAFOs) will be affected by the proposed Rule change in the future.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change will not have a significant effect on permitting fees collected by the Department of Environmental Quality because the proposed change affects only one horse racing facility in the state currently. Furthermore, the Louisiana Department of Environmental Quality anticipates that few such CAFOs will be affected by the proposed Rule change in the future.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups from the proposed Rule change. One horse racing facility in the state will not be required to obtain a waste water permit due to the proposed Rule change. This horse racing facility will avoid paying a permitting fee and use of staff time to prepare the permit. There may also be a few CAFOs in the future that will not be required to obtain a waste water permit in the future due to the proposed Rule changes.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment as a result of the proposed Rule change.

Herman Robinson, CPM  
Executive Counsel  
1308#035

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Office of the Governor Division of Administration Office of Facility Planning and Control

#### Third-Party Projects (LAC 34:III.Chapter 4)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of R.S. 40:1724, the Division of Administration, Office of Facility Planning and Control hereby gives notice of its intent to amend Title 34, Government Contracts, Procurement and Property Control, Part III, Facility Planning and Control to adopt a new Rule: Chapter 4, Third-Party Projects. This Rule expounds R.S. 17:3361 and the requirement of certain oversight of the construction of improvements on college or university properties which are leased to a non-profit organization. This Rule shall provide for the elucidation of the role of the Office of Facility Planning and Control during design and construction oversight of third-party projects.

#### Title 34

#### GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

#### Part III. Facility Planning and Control

#### Chapter 4. Third-Party Projects

#### §401. Preface

A. R.S. 17:3361 provides for the following.

1. Each higher education management board may grant leases of any portion or portions of grounds or campus of any college or university or other immovable property under its supervision and management. These leases may be granted for a term not to exceed 99 years for each lease.

2. Said leases may be granted to any of the following:

- a. an organized national or local college or university fraternity or sorority;
- b. a religious, quasi-religious, or benevolent organization or other nonprofit corporation or association;
- c. a military organization under the supervision of the state of Louisiana or of the United States of America;
- d. a public body;
- e. a private entity, provided such private entity shall be obligated under the terms of the lease agreement to

construct improvements on the leased premises which will further the educational, scientific, research, or public service functions of the board and provided further that the private entity has been selected pursuant to a competitive bid or competitive proposal process.

3. Each board may permit the lessees to erect, construct, and maintain thereon fraternity or sorority houses or homes, student centers, facilities for religious worship and instruction, armories, storehouses, and other structures. Contracts entered into by private lessee for the performance of work on the leased premises or the erection, construction, or maintenance of improvements on the leased premises shall not constitute public works contracts.

4. The land leased to any fraternity, sorority, religious or quasi-religious organization shall not exceed 1 acre.

5. The architectural plans for each house or other structure shall be approved by the board prior to any construction taking place on the leased grounds.

6. The provisions of R.S. 39:1643 and R.S. 41:1211-1225 shall not be applicable to agreements authorized by R.S. 17:3361.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:

#### **§403. Oversight**

A. Any construction in conjunction with a lease to a nonprofit corporation or association in accordance with R.S. 17:3361 resulting in the construction of improvements on or after January 1, 2007, on college or university property shall be considered a third-party project and shall be subject to design and construction oversight by the Division of Administration, Office of Facility Planning and Control.

B. Design and construction oversight:

1. the right to review and approve plans and specifications prior to the commencement of construction and to require such changes as may be necessary to comply with applicable building codes, space standards, where appropriate, and standards ensuring quality of construction; and

2. the right to conduct periodic inspections during construction to ensure that work is being performed in compliance with the approved plans and specifications.

C. The Division of Administration, Office of Facility Planning and Control will not serve as the project manager for third-party projects.

D. R.S. 17:3361 requires that each higher education management board adopt, subject to approval of the Division of Administration, Office of Facility Planning and Control and in consultation with the Board of Regents, proposed space standards and quality standards and exceptions thereto on or before January 1, 2007. These adopted space and construction quality standards are made part of this Rule.

E. Buildings constructed or renovated as third-party projects, being located on property under the jurisdiction of the state of Louisiana, shall be subject to the Louisiana building code (LAC 34:III.131).

F. Any third-party project involving a building having a state ID number, or anticipated being assigned a state ID number in the future, shall be subject to the requirements of

the commercial building energy conservation code in accordance with R.S. 40:1730.41-49.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:

#### **§405. Role during Design Phases**

A. A university or college shall notify the director of the Office of Facility Planning and Control in writing of any new third-party project, prior to beginning design of the project. A preliminary program indicating the scope and budget of the project shall be submitted to the Division of Administration, Office of Facility Planning and Control.

B. At a minimum, plans and specifications, along with a complete building code analysis, shall be submitted to the Office of Facility Planning and Control at the program completion phase and at the final construction documents or bid documents phase. However, submittal of plans and specifications to the Office of Facility Planning and Control may be required at schematic design and design development phases, based on a schedule to be established at the beginning of the project as required in fulfilling the Office of Facility Planning and Control's right to design oversight. Prior to the issuance of any contract for construction or any authorization to proceed with construction, final construction documents shall be submitted to and be found to meet the requirements of the Department of Public Safety and Corrections, Office of State Fire Marshal, the Department of Health and Hospitals and the Division of Administration, Office of Facility Planning and Control, as well as complying with the laws and regulations of any other regulatory authorities having jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:

#### **§407. Role during Construction Phase**

A. The Office of Facility Planning and Control shall be advised of date, time and location of pre-design conference and monthly progress meetings for all third-party projects.

B. The Office of Facility Planning and Control reserves the right to conduct periodic inspections during construction of all third-party projects.

C. Copies of all change orders shall be submitted to the Office of Facility Planning and Control. Change orders will be reviewed pursuant to LAC 34:III.403.

D. Upon certification by the designer of record that the construction has been completed in accordance with the plans and specifications and is in compliance with the Louisiana building code (LAC 34:III.131) and upon receipt of documentation of the final inspection and approval for occupancy by the Office of State Fire Marshal, the Office of Facility Planning and Control will issue a finding of no objection to the building being occupied for its intended purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1724.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 39:

**Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family? This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children? This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family? This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget? This Rule will have no effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children? This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule? This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

This proposed rulemaking will have no impact as set forth in R.S. 49:973.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act R.S. 49:965.6 has been considered. It is estimated that the proposed action will not have a significant adverse impact on small businesses.

**Public Comments**

Interested persons may submit comments to Mark Bell, Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be accepted through September 10, 2013.

John L. Davis  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Third-Party Projects**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs or savings as a result of the proposed rule. Pursuant to R.S. 17:3361, the proposed administrative rule clarifies and provides additional details as to the oversight role of Facility Planning and Control of third party projects on college or university properties, which are leased to a non-profit organization.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated direct material effect on governmental revenues as a result of this measure.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no anticipated material impact to directly affected persons or nongovernmental groups as a result of the proposed rule adoption.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated direct material effect on competition and employment as a result of the proposed administrative rules.

John L. Davis  
Director  
1308#096

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Motor Vehicle Commission**

Automotive Industry  
(LAC 46:V.101, 1307, 1309, 1707, and 1901)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and in accordance with *Revised Statutes* title 32, chapter 6, notice is hereby given that the Office of the Governor, Louisiana Motor Vehicle Commission finds it necessary to amend and adopt rules to further implement the provisions of R.S. 32:1252(l) which amends the definition of an all-terrain vehicle and codifies the agency's policy of requiring a manufacturer's certificate of origin in the licensing process. In §1307, the following language is deleted: "with a maximum of six vehicles per licensee, per display." This deletion makes clear the authority of the executive director to approve off-site displays and is consistent with similar provisions in the Rule. The requirements for a manufacturer's motor vehicle display are set forth in §1309. This Rule makes no change but codifies the agency's policy in effect for many years. The same is true of §1707 with regard to recreational product static off-site displays. The licensing requirements set forth in §1901 codify the agency's requirement that a manufacturer's certificate of origin accompany a license application and makes clear the requirements for the certificate.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part V. Automotive Industry**

**Subpart 1. Motor Vehicle Commission**

**Chapter 1. General Requirements**

**§101. Definitions**

**[Formerly §707]**

A. ...

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*Manufacture's Certificate of Origin (MCO)*, a *Manufacture's Statement of Origin (MSO)* or a *Certificate of Origin*—a transitional ownership document issued by a manufacturer to a specific vehicle, or if a multi-stage vehicle, to a specific component of the vehicle and includes a *manufacturer's statement of origin (MSO)*, a *certificate of origin* or similar term. An *MCO* is used to convey ownership from the manufacturer to a franchised dealer or distributor and from the franchised dealer or distributor to a purchaser.

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*VIN*—a series of Arabic numbers and Roman letters that are assigned to a vehicle for identification.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1545 (July 2010), LR 39:

### **Chapter 13. New Motor Vehicle Auto Shows: Offsite Displays**

#### **§1307. Static Offsite Displays**

A. - C. ...

D. The number of vehicles at any offsite display will be left to the discretion of the executive director.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2996 (October 2011), repromulgated LR 37:3261 (November 2011), amended LR 39:

#### **§1309. Manufacturer's Motor Vehicle Display**

A. A manufacturer's motor vehicle display is a vehicle display arranged by a licensed manufacturer, distributor or wholesaler to demonstrate its motor vehicles to the general public. A licensee's request to display motor vehicles must be received by the commission 30 days prior to the commencement of the display.

B. Each manufacturer's motor vehicle display will be limited to 10 days.

C. The number of motor vehicles at any manufacturer's motor vehicle display will be left to the discretion of the executive director.

D. The manufacturer vehicle display may be manned by product specialists, but no licensed motor vehicle dealer personnel will be allowed on the display site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 39:

### **Chapter 17. Recreational Product Static Offsite Displays; Offsite Expositions**

#### **§1707. Recreational Products Manufacturer's Display**

A. A recreational products manufacturer's display is a product display arranged by a licensed manufacturer, distributor or wholesaler to demonstrate its recreational products to the general public. A licensee's request to display recreational products must be received by the commission 30 days prior to the commencement of the display.

B. Each manufacturer's recreational products display will be limited to 10 days.

C. The number of recreational products at any manufacturer's display will be left to the discretion of the executive director.

D. The manufacturer's recreational products display may be manned by product specialists, but no licensed recreational products dealer personnel will be allowed to participate or work on the display site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 39:

### **Chapter 19. Manufacturer, Distributor or Wholesaler License Application; Submission of MSO/MCO; Information Included**

#### **§1901. Manufacturer, Distributor or Wholesaler License Application; License Application**

A. An application for a license as a vehicle manufacturer, distributor or wholesaler required by R.S. 32:1254 must be accompanied by a manufacturer's statement/certificate of origin (MSO/MCO).

B. The MSO/MCO may be prepared at a factory, assembly plant, or business authorized by the manufacturer. Although variations exist, and MSO/MCO normally is 7"x11" in size, on paper stock 60 pound offset or equivalent durability, and printed with security features that include:

1. sensitize security paper without added optical brighteners that will not fluoresce ultraviolet light;

2. engraved border and prismatic-rainbow printing with copy void pantograph (the word "void" appears when the document is copied); and

3. two complex colors (colors developed by using a mixture of two or more primary colors and black) and two security threads, with or without watermark, and/or intaglio print, with or without latent image, and/or security laminate.

C. The MSO/MCO must contain at least the following information:

1. first conveyance of the vehicle after its manufacture;

2. the model year;

3. make;

4. model, body style;

5. vehicle identification number or serial number if all terrain (ATV) or off-road (ORV) vehicle;

6. an indication that the vehicle was not manufactured for road use, if applicable;

7. shipping weight or curb weight; and

8. the manufacturer's name and address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 39:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? The proposed Rule should have a positive effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This proposed Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The proposed Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This proposed Rule will not affect the behavior or personal responsibility of children.



**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

Exemption to Licensure; Out-of-State Physician Orders  
(LAC 46:XLV.424)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, that the Louisiana State Board of Medical Examiners (board) intends to adopt a new Rule, LAC 46:XLV.424. The proposed Rule provides an exemption to the requirement for Louisiana medical licensure for out-of-state physicians (e.g., physicians licensed to practice medicine in any state other than Louisiana) who order routine diagnostic testing to be performed in this state for an established patient.

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 3. Physicians**

**Subchapter I. License Issuance, Termination, Renewal,  
Reinstatement and Exemptions**

**§424. Exemption to Licensure; Out-of-State Physician  
Orders**

A. Definitions. As used in this Section the following terms shall have the meanings specified.

*Established Patient*—a patient who is currently under the care of out-of-state physician for a diagnosed medical condition or complaint.

*Out-of-state Physician*—a physician who is duly licensed to practice medicine in any state or jurisdiction of the United States other than Louisiana.

*Routine Diagnostic Testing*—laboratory testing and radiologic studies, and such other diagnostic testing as the board may in its discretion determine to be routine upon written application, which is needed for the on-going evaluation or monitoring of the patient's condition or response to therapy.

*State*—any state or jurisdiction of the United States.

B. A license to practice medicine in this state shall not be required for routine diagnostic testing ordered by an out-of-state physician for an established patient provided:

1. the physician-patient relationship was initiated by an in-person, face-to-face visit in a state other than Louisiana where the out-of-state physician is duly licensed to practice medicine;

2. the order can be verified by the health care facility or provider to which or to whom it is presented. While verification need not occur in every instance, the order should be verified if:

a. the out-of-state physician or the institution from which the order was generated is unknown to the provider; or

b. there are other circumstances that would cause a prudent professional acting in the usual scope of practice to suspect non-compliance with the provisions of this Section; and

6. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? This proposed Rule is designed to help the family to obtain the information and help needed to own their own vehicle.

**Poverty Impact Statement**

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

**Small Business Statement**

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

**Public Comments**

Any person may submit data, views or positions in writing to the Louisiana Motor Vehicle Commission, 3519 Twelfth Street, Metairie, LA 70002 and facsimile (504) 838-5416 no later than 4:30 p.m., Thursday, September 19, 2013.

Lessie A. House  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Automotive Industry**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed Rule change will have no impact on state or local governmental expenditures. The proposed Rule change is consistent with current procedures associated with reviewing and preparing the license of a manufacturer or manufacturer's display permits as a result of Act 158 of the 2013 Regular Legislative Session. Act 158 amended the definition of all-terrain vehicle (ATV) and issuance of an off-road decal for an ATV vehicle.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule change will have no effect on the revenue collections of the Louisiana Motor Vehicle Commission.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There is no anticipated effect on costs or economic benefits to directly affected persons or non-governmental groups. Applicants for a manufacturer license or manufacturer display will have no increase in paperwork associated with the application.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed Rule change is expected to have no effect on competition or employment.

Lessie House  
Executive Director  
1308#021

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

3. the results of such testing are provided directly to the ordering out-of-state physician;

C. The exemption provided by this Section shall not apply to an order of an out-of-state physician for:

1. any diagnostic test, study or evaluation other than routine diagnostic testing as defined in this Section;

2. testing of an individual who is not an established patient;

3. routine diagnostic testing of any new complaint or for any medical condition other than that for which an established patient was seen in an in-person, face-to-face visit with the out-of-state physician in another state;

4. the prescription, dispensation or administration of any drug, medication, substance or medical device;

5. screening studies or testing;

6. any therapeutic modality, treatment or care including but not limited to the:

a. treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's Rules; or

b. the treatment of obesity, as set forth in §§6901-6913 of the board's Rules.

D. Nothing in this Section shall require a health care facility or provider to recognize an order for routine diagnostic testing by an out-of-state physician.

E. An order issued by an out-of-state physician that does not comply with the requirements of Section is not a valid order. An out-of-state physician who violates the provisions or limitations of this Section shall be deemed to be engaged in the unauthorized practice of medicine in this state and subject to the penalties prescribed by R.S. 37:1286 and 1290.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1261-1292 and 37:1291.1.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on those that may be living at or below one 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendment will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### **Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, Ex. 242.

She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 20, 2013.

#### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Exemption to Licensure; Out-of-State Physician Orders**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

In conformity with Act No. 44 of the 2011 Regular Session of the Louisiana Legislature (R.S. 37:1291.1), the proposed Rule amends Louisiana Administrative Code (LAC), Title 46, Part XLV, Subpart 2, Chapter 3, Subchapter I, Section 424 Exemption to Licensure; Out of State Physician Orders, to provide an exemption to the requirement for Louisiana medical licensure for out-of-state physicians (e.g., physicians licensed to practice medicine in any state other than Louisiana) who may wish to order routine diagnostic testing to be performed in this state for an established patient.

Other than Rule publication costs estimated at a combined total of \$238 which will be absorbed within the board's budget during FY 2014, it is not anticipated that the proposed Rule will result in any additional costs, savings, increase or reduction in workload or additional paperwork to the Board of Medical Examiners or any other state or local governmental unit.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule will not have any effect on the board's revenue collections or that of any other state or local governmental unit.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed Rule is not anticipated to have any material effect on costs, paperwork, workload or income of physicians or other health care providers. A patient who undergoes routine diagnostic testing in this state on the order of his or her out-of-state physician may receive an economic benefit in the amount of time and costs that would otherwise have been incurred in returning to the out-of-state physician's location for testing. In addition, individuals performing routine diagnostic testing in this state may receive an economic benefit by performing testing in Louisiana that would have otherwise been performed out-of-state.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed Rule will have any material impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.  
Executive Director  
1308#055

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

Licensure and Certification; Qualifications for Medical  
Licensure by Reciprocity (LAC 46:XLV.353)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, that the Louisiana State Board of Medical Examiners (board) intends to amend its Rules governing qualifications for medical licensure by reciprocity, LAC 46XLV.353. The proposed amendment provides another pathway to medical licensure for qualifying reciprocity applicants (e.g., those who are licensed to practice medicine in another state) in lieu of the successful passage of a licensing, certification or recertification examination within the ten years prior to the date of application. To qualify for licensure under the proposed amendment an applicant must be: currently licensed to practice medicine in another state; certified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA); have been primarily engaged in the practice of such specialty for the four years prior to the date of application; and commit to limit their practice in this state to their specialty.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

#### Subpart 2. Licensure and Certification

#### Chapter 3. Physicians

#### Subchapter E. Licensure by Reciprocity

#### §353. Qualifications for Medical Licensure by Reciprocity

A. - C. ...

D. An applicant who possesses all of the qualifications and requirements for licensure by reciprocity specified by §353.A, save for having taken and passed a written certification or recertification examination, SPEX or COMVEX-USA, as described in §353.A and §353.B within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if the applicant is certified by a specialty board recognized by the ABMS or AOA, has been primarily engaged in the practice of medicine in such specialty for the four years immediately preceding the submission of an application, and attests in a form prescribed by the board that applicant's practice in this state will be limited to the applicant's specialty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272, and 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 14:149 (March 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001), LR 31:1583 (July 2005), LR 37:338 (January 2011), LR 39:

### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on those that may be living at or below one 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendment will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

### Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 20, 2013.

### Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Licensure and Certification; Qualifications for Medical Licensure by Reciprocity

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This Rule proposes to amend Louisiana Administrative Code (LAC), Title 46, Part XLV, Subpart 2, Chapter 3, Subchapter E, Section 353 Qualification for Medical Licensure by Reciprocity, to extend medical licensure to qualified reciprocity applicants (e.g., those licensed to practice medicine in another state) whose passage of a national licensing examination, a specified certification, recertification or other qualifying examination was more than 10 years prior to the submission of an application for Louisiana medical licensure. To qualify for licensing under the proposed amendment an applicant must meet the following qualifications: (1) be licensed to practice medicine in another state; (2) certified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA); (3) primarily engaged in the practice of such specialty for the four years prior to the date of application; and (4) commit to the board to limit their practice in this state to their specialty (353D).

Other than Rule publication costs estimated at a combined total of \$264, which will be absorbed within the board's budget during FY 2014, it is not anticipated that the proposed amendment will result in any material costs, savings, increase

or reduction in workload or additional paperwork to the Board of Medical Examiners or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed amendment is anticipated to generate a small number of new reciprocity applicants estimated at approximately 15 in FY 2014 and perhaps 15 reciprocity applicants each year for the next several years. Based on this estimate, and the corresponding renewal applicants, the increase in annual agency revenues is anticipated at: \$5,250 in FY 2014 (15 new applicants x reciprocity licensee fee, 15 x \$350 = \$5,250); \$9,750 in FY 2015 (15 new applicants = \$5,250 + 15 renewal applicants x renewal fee, 15 x \$300 = \$4,500. \$5,250 + \$4,500 = \$9,750); and \$14,250 in FY 2016 (15 new applicants = \$5,250 + 30 renewal applicants x renewal fee, 30 x \$300 = \$9,000. \$5,250 + \$9,000=\$14,250). The proposed amendment will not have any effect on the revenue collections of any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Physicians who meet the requirements of the proposed amendment will be positively impacted in that they will be relieved of the time and costs associated with successfully completing a qualifying examination within the 10 years of the submission of an application. Otherwise, it is not anticipated that the amendment will result in any material increase or decrease in costs, workload or paperwork of physicians or applicants or any material effect on the income of physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed amendment will have any impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.  
Executive Director  
1308#054

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

Physician Practice; Dispensation of Medications  
(LAC 46:XLV.6513)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292, that the Louisiana State Board of Medical Examiners (Board) intends to amend its Rules governing dispensation of medications, LAC 46:XLV.6513, to add Subsection E. The proposed amendment would allow an otherwise eligible physician who has not been in active practice for three years but who holds a current, unrestricted license to practice medicine in this state, has finished a medical residency and completed training on the dispensing rules offered by the board, register with the board as dispensing physician for all medication except controlled substances and drugs of concern.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XLV. Medical Professions

#### Subpart 3. Practice

#### Chapter 65. Dispensation of Medications

#### Subchapter C. Registration

#### §6513. Eligibility for Registration as a Dispensing Physician

A. To be eligible for registration as a dispensing physician for all medication, including but not limited to controlled substances and drugs of concern, a physician shall, as of the date of the application:

A.1. - D. ...

E. To be eligible for registration as a dispensing physician for all medication except controlled substances and drugs of concern, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;

2. have successfully completed a graduate medical education training program approved by the board;

3. successfully complete on-line or other training offered by the board respecting its dispensing rules; and

4. not be deemed ineligible for registration as a dispensing physician for any of the causes set forth in §6513.B-D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:1249 (July 1999), LR 28:2352 (November 2002), LR 39:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

#### Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendment will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 20, 2013.

## Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Physician Practice; Dispensation of Medications

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This amendment proposes to change eligibility for a dispensing registration. Only physicians registered with the board as *dispensing physicians* may dispense (e.g., provide, give or sell) medication, other than a bona fide sample of a non controlled drug "for later oral ingestion, insertion, application, injection, or other use." Under the current Louisiana Administrative Code (LAC), Title 46, Part XLV, Subpart 3, Chapter 65, Subchapter C, Section 6513 Eligibility for Registration as a Dispensing Physician, eligibility for a dispensing registration requires a physician to have been in active practice for not less than three years. The proposed change would allow a physician who has not been in active practice for three years but meets the following requirements to register as a dispensing physician for all medication except controlled substances and drugs of concern: (1) hold a current, unrestricted license to practice medicine in this state; (2) have completed a residency program; (3) have completed training on the dispensing rules offered by the board; and (4) not otherwise be ineligible for registration.

Other than Rule publication costs estimated at a combined total of \$291, which will be absorbed within the board's budget during FY 2014, it is not anticipated that the proposed amendment will result in any additional costs, savings, increase or reduction in workload or additional paperwork to the Board of Medical Examiners or any other state or local governmental unit.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed amendment is anticipated to generate a small number of new dispensing applicants estimated at approximately 10 new dispensing applicants in FY 2014 and 10 new dispensing applicants each year for the next several years. Based on this estimate, and the corresponding renewal applicants, the increase in annual agency fees and self-generated revenues is anticipated at \$750 in FY 2014 (10 new applicants x dispensing registration fee, 10 x \$75 = \$750); \$1,250 in FY 2015 (10 new applicants = \$750 + 10 renewal applicants x dispensing registration renewal fee, 10 x \$50 = \$500. \$750 + \$500 = \$1,250); and \$1,750 in FY 2016 (10 new applicants = \$750 + 20 renewal applicants x dispensing registration renewal fee, 20 x \$50 = \$1,000. \$750 + \$1,000=\$1,750). The proposed amendment will not have any effect on the revenue collections of any other state or local governmental unit.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Physicians who meet the requirements of the proposed amendment will be positively impacted in that they will be eligible for registration as a dispensing physician after completing on-line or other training on the board's dispensing rules. It is anticipated that the training will take approximately one hour. Accordingly, it not anticipated that the amendment

will result in any material increase or decrease in costs, workload or paperwork of physicians in general or registered dispensing physicians in particular. Such physicians may also receive an economic benefit, which the board is not in a position to estimate, to the extent of any profits derived from dispensing medications.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed amendment will have any impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.  
Executive Director  
1308#057

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

#### Restriction, Limitation on Examinations; Additional Requirements (LAC 46:XLV.1935)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270 and the Louisiana Occupational Therapy Practice Act, R.S. 37:3001-3014, that the Louisiana State Board of Medical Examiners (board) intends to amend its rules governing the restriction and limitation on the number of examination attempts for occupational therapy licensure, LAC 46XLV.1935.A. Under the proposed amendment an applicant who unsuccessfully attempts the examination four times would no longer be automatically excluded from licensure consideration; rather the applicant could regain licensure eligibility by completing additional education or training.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

#### Subpart 2. Licensure and Certification

#### Chapter 19. Occupational Therapists and Occupational Therapy Assistants

#### Subchapter D. Examination

#### §1935. Restriction, Limitation on Examinations; Additional Requirements

A. An applicant who fails the examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:

### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendment will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

### Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 20, 2013.

### Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Restriction, Limitation on Examinations; Additional Requirements

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule amends the number of times an applicant may attempt to pass the examination for licensure and certification of occupational therapists and occupational therapy assistants. Under the current rule, Louisiana Administrative Code (LAC), Title 46, Part XLV, Subpart 2, Chapter 19, Subchapter D, Section 1935 Restriction, Limitation on Examinations, Additional Requirements, any applicant who fails the occupational therapy ("OT") licensing examination four (4) times is thereafter ineligible for licensure in this state. The proposed amendment would lift the automatic exclusion from licensure consideration for an applicant who does not pass the examination in four attempts and permit such an individual to regain licensure eligibility after completing such additional education or training as may be recommended by the occupational therapy advisory committee and approved by the board or as the board may otherwise determine appropriate.

Other than notice and Rule publication costs estimated at a combined total of \$234, which will be absorbed within the board's budget during FY 2014, it is not anticipated that the proposed Rule amendment will result in any material costs, savings, increase or reduction in workload or additional paperwork to the Board or Medical Examiners or any other state or local governmental unit.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

While the board has no reliable data, it is believed that a very limited number of occupational therapy applicants may qualify for licensure on the basis of the proposed amendment. Although the board is not in a position to estimate the proposed amendment's effect in this respect, it is anticipated that such applicants will be infrequent and non-recurring on an annual basis. Any such applicant would be subject to the licensing fees specified by the board's Rules. Accordingly, no material effect on the board's revenue collections or those of any other state or governmental unit is anticipated.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

An applicant who falls within the scope of the amendment would be positively impacted in that he or she could regain licensure eligibility after completing additional education or training. Otherwise, it is not anticipated that the proposed amendment will have any material impact on the receipts and/or income of licensees or non-governmental groups.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed amendment will have any significant impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.  
Executive Director  
1308#056

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Federally Qualified Health Centers  
Fluoride Varnish Applications  
(LAC 50:XI.10301 and 10701)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.10301 and §10701 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 federally qualified health centers (FQHCs) to provide Medicaid reimbursement for diabetes self-management training services and to reorganize the existing provisions governing provider participation and services in a more clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 37, Number 9). The department published an Emergency Rule which amended the September 20, 2011 Rule to adopt provisions for the coverage of fluoride varnish application services rendered to Medicaid recipients (*Louisiana Register* Volume 37, Number 11). The department subsequently amended the December 1, 2011 Emergency Rule to clarify the provisions governing the scope of services for fluoride varnish applications (*Louisiana Register*, Volume 38, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 20, 2012 Emergency Rule.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XI. Clinic Services

#### Subpart 13. Federally-Qualified Health Centers

#### Chapter 103. Services

#### §10301. Scope of Services

A. - B.1. ...

C. Effective December 1, 2011, the department shall provide coverage for fluoride varnish applications performed in the FQHC. This service shall be limited to recipients from six months through five years of age. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

1. Fluoride varnish applications shall be reimbursed when performed in the FQHC by:

- a. the appropriate dental providers;
- b. physicians;
- c. physician assistants;
- d. nurse practitioners;
- e. registered nurses; or
- f. licensed practical nurses.

2. All participating staff shall review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the FQHC.

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 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1901 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2927 (September 2011), LR 39:

#### Chapter 107. Reimbursement Methodology

#### §10701. Prospective Payment System

A. - B.3.a. ...

4. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall include coverage for fluoride varnish applications in the FQHC encounter rate.

a. Fluoride varnish applications shall only be reimbursed to the FQHC when performed on the same date of service as an office visit or preventative screening. Separate encounters for fluoride varnish services are not permitted and the application of fluoride varnish does not constitute an encounter visit.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), LR 39:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it will improve health outcomes and reduce the occurrence of future dental disease.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it is expected to reduce the costs associated with the treatment of dental disease which will ease the financial burden on families.

#### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2013 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.

Kathy H. Kliebert  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Federally Qualified Health Centers Fluoride Varnish Applications

#### 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 programmatic costs of \$5,911 for FY 13-14, \$6,111 for FY 14-15 and \$6,329 for FY 15-16. It is anticipated that \$410 (\$205 SGF and \$205 FED) will be expended in FY 13-14 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 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

#### 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 \$9,902 for FY 13-14, \$9,754 for FY 14-15 and \$10,012 for FY 15-16. It is anticipated that \$205 will be expended in FY 13-14 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 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the December 1, 2011 and January 20, 2012 emergency rules

which amended the provisions governing federally qualified health centers to adopt provisions for the coverage of fluoride varnish application services rendered to Medicaid recipients. It is anticipated that implementation of this proposed Rule will increase programmatic expenditures in the Medicaid Program by approximately \$15,403 for FY 13-14, \$15,865 for FY 14-15 and \$16,341 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed Rule will have no have effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1308#088

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Health Care Facility Sanctions  
(LAC 48:I.Chapter 46)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 50:I.Chapter 55 governing health care facility sanctions in its entirety and adopts LAC 48:I.Chapter 46 as authorized by R.S. 36:254, 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1. 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 provisions governing health care facility sanctions to concur with the Inventory for Client and Agency Planning (ICAP) instrument used in the development of individualized rates for recipients residing in intermediate care facilities for persons with developmental disabilities (*Louisiana Register*, Volume 31, Number 7).

The Department of Health and Hospitals, Bureau of Health Services Financing now proposes to repeal and replace the provisions governing health care facility sanctions and include provisions for the administration of the Nursing Home Residents' Trust Fund and Health Care Facility Fund in order to incorporate these provisions under a single comprehensive Rule in Part I, Title 48 of the *Louisiana Administrative Code*.

**Title 48**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 3. Licensing**

**Chapter 46 Health Care Facility Sanctions**

**Subchapter A. General Provisions**

**§4601. Introduction**

A. The purpose of this Chapter is to:

1. provide for the development, establishment and enforcement of statewide standards for the imposition of sanctions pursuant to state statutes against health care facilities in the state of Louisiana which have violations of federal or state law or statutes, licensure standards and requirements, certification requirements, or Medicaid requirements;

2. specify criteria as to when and how each sanction is to be applied;

3. specify the severity of the sanctions to be used in the imposition of such sanctions;

4. develop the procedure and requirements for applying each sanction;

5. provide for an administrative reconsideration process as well as an appeal procedure, including judicial review; and

6. provide for the administration of the Nursing Home Residents' Trust Fund and the Health Care Facility Fund.

B. This chapter shall not apply to any individual health care provider who is licensed or certified by one of the boards under the Department of Health and Hospitals. These boards include, but are not limited to:

1. Board of Pharmacy;

2. Board of Physical Therapy;

3. Board of Licensed Medical Examiners;

4. Board of Dentistry;

5. Board of Podiatry; and

6. Board of Optometrists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**§4603. Definitions**

*Administrative Reconsideration*—for purposes of this Chapter, also known as informal reconsiderations.

*Class A Violation*—a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a client. Examples of Class A violations include, but are not limited to:

1. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in the death of a client; or

2. acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in serious harm to a client.

*Class B Violation*—a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created which results in the substantial probability of death or serious physical or mental harm to a client. Examples of Class B violations include, but are not limited to:

1. medications or treatments improperly administered or withheld;

2. lack of functioning equipment necessary to care for a patient or client;

3. failure to maintain emergency equipment in working order;

4. failure to employ a sufficient number of adequately trained staff to care for clients; or

5. failure to implement adequate infection control measures.

*Class C Violation*—a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client. Examples of Class C violations include, but are not limited to:



1. failure to perform treatments as ordered by the physician, including the administration of medications;
2. improper storage of poisonous substances;
3. failure to notify the physician and family of changes in the condition of a patient or client;
4. failure to maintain equipment in working order;
5. inadequate supply of needed equipment;
6. lack of adequately trained staff necessary to meet a patient's or client's needs; or
7. failure to protect patients or clients from personal exploitation including, but not limited to, sexual conduct involving facility staff and a patient or client.

*Class D Violation*—a violation of a rule or regulation related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a client. Examples of “Class D” violations include, but are not limited to:

1. failure to submit written reports of accidents;
2. failure to timely submit a plan of correction;
3. falsification of a record; or
4. failure to maintain a patient's or client's financial records as required by rules and regulations.

*Class E Violation*—a violation that occurs when a facility fails to submit a statistical or financial report in a timely manner as required by rule or regulation.

*Client*—an individual receiving services from a health care facility.

*CMS*—the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

*Department or DHH*—the Louisiana Department of Health and Hospitals.

*Desk Review*—Health Standards Section's (HSS) procedure for conducting administrative reconsiderations of sanctions in which a panel of HSS employees, who were not involved in the decisions to cite the deficiencies that were the basis of the sanction or impose the sanction, reviews the documentation submitted by the facility and the information on which the sanction was based and determines whether the sanction was appropriate. Oral presentations are not scheduled unless requested.

*Devolutive Appeal*—an appeal that does not suspend the execution of the administrative sanction pending the outcome of the appeal.

*Division of Administrative Law (DAL)*—the Louisiana Department of State Civil Service, Division of Administrative Law, or its successor.

*Health Care Facility or Facility*—any health care provider or entity licensed or certified by DHH. In other laws, statutes and regulations, this entity may be referred to as a provider, agency, clinic, residential unit, or home. A health care facility shall include, but not be limited to a/an:

1. abortion clinic;
2. adult brain injury facility;
3. adult day health care agency;
4. adult residential care provider (ARCP);
5. ambulatory surgical center;
6. case management agency;
7. behavioral health service provider;
8. crisis receiving center;
9. emergency medical services provider;
10. end stage renal disease (ESRD) treatment facility;

11. forensic supervised transitional residential and aftercare facility;
12. supplier of portable x-ray services;
13. home and community-based services (HCBS) provider;
14. home health agency;
15. hospice agency;
16. hospital;
17. intermediate care facility for persons with developmental disabilities (ICF-DD);
18. mental health clinic;
19. mental health center;
20. mental health rehabilitation agency;
21. non-emergency medical transportation agency;
22. nursing facility;
23. rural health clinic;
24. pain management clinic;
25. pediatric day health care (PDHC) facility;
26. psychiatric rehabilitation treatment facility (PRTF);
27. substance abuse/addiction treatment facility; and
28. therapeutic group home (TGH).

*HSS*—the Department of Health and Hospitals, Office of Management and Finance, Health Standards Section.

*Licensee*—the person, partnership, company, corporation, association, organization, professional entity, or other entity to whom a license is granted by the licensing agency, and upon whom rests the ultimate responsibility and authority for the conduct of, and services provided by the facility.

*Louisiana Administrative Procedures Act (APA)*—R.S. 49:950 et seq.

*New Admission*—any individual admitted to a facility or a new client receiving services from the facility after the facility receives notice of the sanction and on or after the effective date of the sanction as listed in the sanction notice. A client who was admitted prior to the effective date of the sanction and taking temporary leave before, on or after the effective date of the sanction is not considered a new admission upon return to the facility.

*Repeat Violation*—either of the following:

1. the existence of the violation is established as of a particular date and it is one that may be reasonably expected to continue until corrective action is taken. The department may elect to treat the cited continuing violation as a repeat violation subject to appropriate sanction for each day following the date on which the initial violation is established until such time as there is evidence that the violation has been corrected; or

2. the existence of a violation is established and another violation that is the same or substantially similar to the cited violation occurs within 18 months. The second and all similar violations occurring within an 18-month time period will be considered as repeat violations and sanctioned accordingly.

*Sanction*—any adverse action imposed on a facility by the department pursuant to its statutory or regulatory authority for a violation of a statute, law, rule or regulation. For purposes of this Rule, sanction does not include the following:

1. any adverse action that may be applied to a facility by the Statewide Management Organization of the Louisiana Behavioral Health Partnership or its successor, or by a

contracted coordinated care network with the Bayou Health program or its successor;

2. any adverse action that may be applied to a facility by an agency of the federal government or another state agency;

3. a deficiency; or

4. an immediate jeopardy determination.

*Secretary*—the secretary of DHH or his/her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

## **Subchapter B. Sanctions and Standards for the Imposition of Sanctions**

### **§4611. General Provisions**

A. Any health care facility found to be in violation of any state or federal statute, regulation, or any department rule, adopted in accordance with the APA, governing the administration and operation of the facility may be sanctioned as provided in this Chapter.

B. Unless otherwise prohibited by federal law or regulation, the department may impose one or more of the following sanctions:

1. civil fine(s);

2. denial of Medicaid payment with respect to any individual admitted to, or provided services by, a facility;

3. denial of new admissions into the facility or by the provider;

4. removal from the freedom of choice list;

5. transfer of clients receiving services;

6. suspension of license;

7. monitoring;

8. special staffing requirements;

9. temporary management;

10. revocation of license;

11. denial of license renewal; or

12. any and all sanctions allowed under federal or state law or regulations, including but not limited to:

a. sanctions authorized under the Medical Assistance Programs Integrity Law (MAPIL), pursuant to R.S. 46:437.1 et seq.;

b. the Surveillance and Utilization Review Systems (SURS) Rule, pursuant to LAC 50:I, Chapter 41; or

c. any successor statutes or rules.

C. Considerations. When determining whether to impose a sanction, the department may consider some or all of the following factors:

1. whether the violations pose an immediate threat to the health or safety of the client(s);

2. the duration of the violation(s);

3. whether the violation, or one that is substantially similar, has previously occurred during the last three consecutive surveys;

4. the facility's history of survey compliance;

5. the sanction most likely to cause the facility to come into compliance in the shortest amount of time;

6. the severity of the violation if it does not pose an immediate threat to health and safety;

7. the "good faith" exercised by the facility in attempting to stay in compliance;

8. the financial benefit to the facility of committing or continuing the violation;

9. whether the violation is a repeat violation;

10. whether the facility interfered or hindered the department's investigation or survey process;

11. whether the facility has the governance or institutional control to maintain compliance; and

12. such other factors as the department deems appropriate.

D. The department shall determine whether a violation is a repeat violation and sanction the provider accordingly.

E. The department reserves the right to issue more than one sanction for each violation committed by a facility.

F. Any facility sanctioned under this Rule and found to have a violation that poses a threat to the health, safety, rights, or welfare of a client may have additional actions, such as criminal charges, brought against it under another applicable law, statute or regulation.

G. Unless otherwise provided for in state law or statute, if the secretary determines that the violations committed by the facility pose an imminent or immediate threat to the health, welfare or safety of any client receiving services, the imposition of the sanction may be immediate and may be enforced during the pendency of the administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

### **§4613. Civil Fines**

#### **A. Class A Violations**

1. Civil fines for Class A violations shall not exceed \$2,500 for the first violation and shall not exceed \$5,000 per day for repeat violations.

2. The aggregate fines assessed for Class A repeat violations shall not exceed \$20,000 in any one calendar month.

#### **B. Class B Violations**

1. Civil fines for Class B violations shall not exceed \$1,500 for the first violation and shall not exceed \$3,000 per day for repeat violations.

2. The aggregate fines assessed for Class B repeat violations shall not exceed \$15,000 in any one calendar month.

#### **C. Class C Violations**

1. Civil fines for Class C violations shall not exceed \$1,000 for the first violation and shall not exceed \$2,000 per day for repeat violations.

2. A facility may elect to pay 50 percent of the civil fine imposed for a Class C violation in exchange for waiving its right to an administrative reconsideration and appeal if it submits, and HSS receives, the following within 30 days of the facility's receipt of the civil fine notice:

a. payment of 50 percent of the civil fine imposed; and

b. the facility's written waiver of the right to an administrative reconsideration and appeal on the form provided by DHH.

#### **D. Class D Violations**

1. Civil fines for Class D violations shall not exceed \$100 per day for the first violation and shall not exceed \$250 per day for repeat violations.

#### **E. Class E Violations**

1. Civil fines for Class E violations shall not exceed \$50 for the first violation and shall not exceed \$100 for repeat violations.

F. Determination of the Amount of Civil Fines

1. In establishing the amount of civil fines to be imposed against the provider, the department may consider:

a. all relevant aggravating circumstances, including, but not limited to:

- i. whether the violation resulted from intentional or reckless conduct by the provider;
- ii. the pervasiveness of the violation;
- iii. the duration of the violation; and/or
- iv. the extent of actual or potential harm to clients;

and

b. all relevant mitigating circumstances, including, but not limited to:

- i. whether the provider had taken steps to prevent the violation; and/or
- ii. whether the provider had implemented an effective corporate compliance program prior to the violation.

2. The aggregate fines assessed for any Class C, D and E violations shall not exceed \$5,000 in any one calendar month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**§4615. Denial of Medicaid Payment**

A. The department may impose the sanction of “denial of Medicaid payment” with respect to any individual admitted to or provided services by a facility for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient or client;

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death or serious physical or mental harm to a resident, patient or client will result from the violation;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client; or

4. more than two substantiated complaint surveys in two years.

B. This sanction shall remain in effect until:

1. the department determines that the facility is in compliance with the requirements; and

2. the department has provided notice to the facility of its compliance and the lifting of the sanction.

C. The department has the discretion to apply this sanction to new admissions only.

D. The facility shall notify all clients and all potential new clients of the imposition of this sanction.

E. The facility is prohibited from seeking reimbursement from a Medicaid recipient for services provided during the imposition of this sanction.

F. This sanction may be used in conjunction with other sanctions including, but not limited to, removal from the freedom of choice list and transfer of clients to another facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**§4617. Denial of New Admissions**

A. The department may impose the sanction of “denial of new admissions.” Denial of new admissions prohibits a new client from being admitted to a facility or any new client from receiving services from a facility during the term of the sanction.

B. The department may impose the sanction of denial of new admission for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient or client;

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death or serious physical or mental harm to a resident, patient or client will result from the violation;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client; or

4. more than two substantiated complaint surveys in two years.

C. The facility must provide notice of the imposition of the sanction and its effective date to all potential new admissions and to health care providers who have transferred, or it reasonably believes may transfer, a client into the sanctioned facility.

D. The sanction shall remain in effect until:

1. the department determines that the facility is in compliance with the requirements; and

2. the facility has received notice of its compliance and the lifting of the sanction.

E. This sanction may be used in conjunction with other sanctions, including removal from the freedom of choice list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**§4619. Removal from the Freedom of Choice List**

A. The department may impose the sanction of “removal from the freedom of choice list” to a facility placed on a freedom of choice list. DHH may impose this sanction for any violation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient or client;

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death or serious physical or mental harm to a resident, patient or client;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client; or

4. more than two substantiated complaint surveys in two years.

B. The sanction of removal from the freedom of choice list shall remain in effect until:

1. the department determines that the facility is in compliance with the requirements; and
2. the facility has received notice of its compliance and the lifting of the sanction.

C. This sanction may be used in conjunction with another sanction, including denial of new admissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4621. Transfer of Clients Receiving Services**

A. The department may impose the sanction of "transfer of clients receiving services" provided by a facility. This sanction may be imposed for any violation of statute, rule or regulation including but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient or client;
2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death, serious physical harm or mental harm to a resident, patient or client;
3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client;
4. when there is an imminent threat to the health, safety and welfare of the facility's clients; or
5. more than two substantiated complaint surveys in two years.

B. This sanction may be imposed in conjunction with any other sanctions including, but not limited to, the following:

1. license suspension;
2. monitoring;
3. license revocation; and/or
4. denial of Medicaid payment with respect to any individual admitted to or provided services by a facility.

C. The sanction of transfer of clients shall remain in effect until:

1. the department determines that the facility is in compliance with the requirements; and
2. The facility has received notice of its compliance and the lifting of the sanction from the department.

D. The facility shall:

1. assist in the safe and orderly transfer of its clients to other facilities;
2. prohibit any action(s) that would prevent or impede the transfer of its clients;
3. maintain the needs of its clients until the transfer is complete; and
4. update the client's treatment plan and other records as necessary in preparation for the transfer or discharge of its client.

E. The facility, with assistance from the department, shall notify the clients of the transfer sanction and the transfer procedures. The department will identify similar facilities in close proximity to accommodate the clients being transferred.

F. At a minimum, the facility shall provide, at the facility's expense:

1. a copy of the current active treatment plan;
2. current orders; and
3. any other pertinent medical records to the facility accepting its transferred clients in an effort to achieve the seamless continuum of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4623. License Suspension**

A. Unless otherwise provided by federal or state law, the department may impose a suspension of a license if the department determines that the violations committed by the facility pose an imminent or immediate threat to the health, welfare or safety of its clients.

B. The sanction of license suspension shall remain in effect until the department determines that the facility is in compliance with the requirements, and has provided notice of compliance and the lifting of the suspension to the facility.

C. The imposition or lifting of the suspension does not affect the imposition of other sanctions.

D. If the license suspension is reversed during the appeal process, the facility's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4625. Monitoring**

A. The department may impose the sanction of monitoring. The facility is responsible for the cost of the monitoring.

B. Monitoring may be imposed:

1. when the facility is noncompliant with any law, statute, rule or regulation and is in the process of correcting deficiencies to achieve such compliance;
2. when the facility was previously found to be noncompliant with any law, statute, rule or regulation, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or
3. when the department has reason to question the compliance of the facility with any law, statute, rule or regulation;
4. while a facility is instituting improvements; or
5. while a facility is in the process of closing.

C. Monitoring may include:

1. periodic unannounced visits by a surveyor;
2. on-site full time monitoring by surveyors to observe all phases of the facility's operations; or
3. on-site visits as deemed necessary by the department.

D. The department may maintain and utilize a specialized team of professionals, such as an attorney, auditor or health care professional, for the purpose of identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against facilities being monitored.

E. The sanction of monitoring shall remain in effect until:

1. the department determines that the facility is in compliance with the requirements and will remain in compliance with such requirements; and

2. the facility has received notice of compliance and the lifting of the sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4627. Special Staffing Requirements**

A. The department may require special staffing for the facility.

B. Special staffing may include, but is not limited to:

1. a consultant on client assessments or care planning;
2. an additional licensed nurse to provide treatments;
3. a consultant dietician;
4. a consultant pharmacist; or
5. medical records practitioner.

C. The department may impose the sanction of special staffing for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient or client;

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death or serious physical or mental harm to a resident, patient or client will result from the violation;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client;

4. at the discretion of the department, when there is a breakdown in the care and services at a facility and the efforts of the facility have not been successful in correcting the deficiencies; or

5. when there is an imminent threat to the health, safety and welfare of the facility's clients.

D. Any special staffing shall meet the requirements outlined in the letter from the department and be:

1. in addition to the staff already hired;
2. time limited;
3. compensated by the facility; and
4. approved by the department.

E. The sanction shall remain in effect until the department determines the facility:

1. is in compliance with requirements; and
2. has received notice of its compliance and the lifting of the sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4629. Temporary Management**

A. The department may require the immediate appointment of a temporary manager, at the facility's expense, to:

1. oversee the operation of the facility; and
2. assure the health and safety of the facility's clients.

B. Temporary management may be imposed for any violation of statute, rule or regulation including, but not limited to:

1. a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance and/or operation of a facility which results in death or serious harm to a resident, patient or client;

2. a violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility is created and results in the substantial probability of death, serious physical harm or mental harm to a resident, patient or client;

3. a repeat violation of a rule or regulation in which a condition or occurrence relating to the maintenance and/or operation of a facility creates a potential for harm by directly threatening the health, safety, rights, or welfare of a client;

4. when there is a breakdown in the care and services at a facility and the efforts of the facility have not been successful in correcting the deficiencies;

5. when a licensee or its management has abandoned its clients;

6. when a licensee or its management has abandoned the facility which jeopardizes the health, safety and/or welfare of the facility's clients; or

7. when a facility is closing within 30 calendar days and the department has reasonable cause to believe that inadequate arrangements have been made to relocate the clients and may result in adverse effects to the clients.

C. This sanction shall be enforced and in effect during the pendency of the facility's administrative reconsideration and/or appeal.

D. Cost of Temporary Management

1. The facility shall be responsible for all costs of temporary management.

2. The department shall undertake any means to recover the payment of temporary management including, but not limited to, withholding or recouping from the facility's Medicaid reimbursement.

3. Failure to reimburse the department for the cost of temporary management shall result in the facility's owners, managers, officers, directors and administrator being prohibited from operating, managing, directing or owning a licensed health care facility for a period of two years from the latter of the date the sanction is lifted or the date the sanction is upheld through the appeal process.

E. Powers and Duties of the Temporary Manager

1. The facility must provide the temporary manager with sufficient power and duties to address, correct and/or ameliorate the deficiencies that led to the imposition of the temporary management sanction.

2. The temporary manager's powers and duties are subject to the approval of the department.

F. Qualifications and Compensation of a Temporary Manager. The facility shall appoint a temporary manager who is:

1. qualified by education and experience to perform the duties required of the temporary management;

2. subject to the approval of the department; and

3. adequately compensated by the facility for the performance of his/her duties as temporary manager.

G. The department may end the temporary management of a facility when it determines that the facility is in compliance with the laws, rules or regulations for a sufficient time period as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**§4631. Denial of Renewal License and Revocation of License**

A. The department may deny an application to renew a license or may revoke a license pursuant to the process and procedures contained in the department's statutory and promulgated licensing standards applicable to each facility.

**B. Voluntary Non-Renewal**

1. If a facility fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered.

2. There are no appeal rights for a voluntary surrender as this is a voluntary action on the part of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**Subchapter C. Notice and Appeals**

**§4641. Notice of Sanctions and Appeals**

A. Unless otherwise provided in the licensing standards or other promulgated state rule or regulation, the following notice and appeal procedures are applicable to all sanctions imposed by the department pursuant to a Louisiana state statute or regulation.

B. Notice to Facility of Sanctions. The department shall provide written notice to a health care facility of the imposition of a sanction. The notice shall contain the following information:

1. the nature of the violation(s) and whether the violation is a repeat violation;
2. the legal authority for the violation(s);
3. the sanction assessed for each violation and the effective date of the sanction;
4. notification that the facility has 10 calendar days from receipt of the notice within which to request an administrative reconsideration of the proposed sanction;
5. notification of the administrative reconsideration and/or administrative appeal procedures and the deadlines for each; and
6. notification that the department's decision becomes final and no administrative or judicial review may be obtained if the facility fails to timely request an administrative reconsideration and/or administrative appeal.

C. Waivers. When a civil fine for a Class C violation is imposed, the facility may choose to waive its right to an administrative reconsideration and appeal hearing in exchange for paying 50 percent of the fine by submitting the waiver and payment to HSS within 30 days of receipt of the notice imposing the civil fine.

D. Administrative reconsideration. The facility may request an administrative reconsideration of the department's decision to impose a sanction.

1. The facility's request for an administrative reconsideration must:
  - a. be in writing;

- b. be received by HSS within 10 calendar days of the provider's receipt of the notice of the imposition of the sanction; and

- c. include any documentation that demonstrates that the sanction was in error.

2. A reconsideration shall be conducted by designated employees of the department who did not participate in the initial decision to recommend imposition of the sanction.

3. Correction of the deficiency or violation cited for imposition of the sanction shall not be the basis for an administrative reconsideration.

4. A reconsideration shall be conducted as a desk review unless the facility elects to make an oral presentation. The facility may request an oral presentation by notifying HSS within the deadline provided in the notice scheduling the administrative reconsideration.

5. A sanction may be confirmed, reduced or rescinded as a result of the administrative reconsideration. A deficiency may not be altered or rescinded as a result of the administrative reconsideration, except a deficiency may be altered or rescinded in an administrative reconsideration of a revocation, denial of renewal or suspension.

6. A reconsideration decision shall be based upon all documents and the oral presentation furnished by the provider to the department at the time of the administrative reconsideration.

7. A reconsideration decision is final unless the facility timely requests an administrative appeal.

**E. Administrative Appeal**

1. The provider may request an administrative appeal of the department's decision to impose a sanction.

2. The issue that may be adjudicated in the appeal is the appropriateness of the sanction, including the classification of the violation(s).

3. A deficiency and its underlying facts may not be altered or rescinded as a result of the administrative appeal, except a state deficiency and its underlying facts may be altered or rescinded in an administrative appeal of a revocation, denial of renewal or suspension. For example, in an appeal of a fine due to a Class A violation, the DAL, after hearing the evidence, may decide to reduce the violation to a Class B and reduce the fine accordingly. However, the DAL may not reduce or alter the underlying deficiency on the survey report.

4. The facility's appeal request shall:

- a. be in writing;
  - b. be received by the DAL within 30 days of the provider's receipt of the notice of the imposition of the sanction when no administrative reconsideration is requested, or when an administrative reconsideration is requested, within 30 days of the receipt of the notice of the results of the administrative reconsideration;
  - c. state what the facility contests and the specific reasons for the disagreement; and
  - d. shall include any documentation that demonstrates that the sanction was imposed in error.

5. In an appeal contesting a civil fine, the facility shall either post an appeal bond with the DAL as provided in R.S. 40:2009.11 for nursing facilities or R.S. 40:2199(D) for all other facilities, or the facility may choose to pay the fine and file a devolutive appeal.

6. Correction of the deficiency or violation cited for the imposition of the sanction will not be considered as a basis for the appeal.

7. The administrative hearing shall be limited to those issues specifically contested.

8. Except as hereinafter provided, when an administrative appeal is requested in a timely and proper manner, the DAL shall provide an administrative hearing in accordance with the provisions of the APA.

E. Judicial Review. The facility may request judicial review of the administrative appeal decision in the Nineteenth Judicial District Court in accordance with the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **§4643. Administrative Appeal Process**

A. Any party may appear and be heard at an appeal proceeding through an attorney at law or designated representative. A designated representative must file a written notice of appearance on behalf of the facility identifying him/herself by name, address and telephone number, and identifying the party represented in addition to written authorization to appear on behalf of the facility.

B. The administrative appeal hearing shall be conducted by an administrative law judge (ALJ) or his or her successor from the DAL.

##### **C. Preliminary Conferences**

1. The ALJ may schedule a preliminary conference.

2. The purposes of a preliminary conference, if scheduled, include, but are not limited to the following:

- a. clarification, formulation and simplification of issues(s);
- b. resolution of matters in controversy;
- c. exchange of documents and information;
- d. stipulations of fact so as to avoid unnecessary introduction of evidence at the formal review;
- e. the identification of witnesses; and
- f. such other matters that may aid in the disposition of the issues.

3. When the ALJ schedules a preliminary conference, all parties shall be notified in writing. The notice shall direct any parties and their attorneys to appear at a specified date, time and place.

4. Where the preliminary conference resolves all or some matters in controversy, a summary of the findings agreed to at the conference shall be provided to all parties.

5. Where the preliminary conference does not resolve all matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy.

##### **D. Hearings**

1. When an administrative hearing is scheduled, the facility and/or its attorney and the agency representative, shall be notified in writing of the date, time and place of the hearing.

2. Evidence. The taking of evidence shall be controlled in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the issues shall be explained, and the order in which the evidence will be received shall be explained.

a. Testimony shall be taken only on oath, affirmation or penalty of perjury.

b. Each party shall have the right to:

- i. call and examine witnesses;
  - ii. introduce exhibits;
  - iii. question opposing witnesses and parties on any matter relevant to the issue even though the matter was not covered in the direct examination; and
  - iv. impeach any witness regardless of which party first called him to testify; and
  - v. rebut the evidence against him.
- c. The ALJ may question any party or witness and may admit any relevant and material evidence.
- d. Each party shall arrange for the presence of their witnesses at the hearing.

e. A subpoena to compel the attendance of a witness may be issued by the ALJ upon written request by a party and showing the need therefore, or by the ALJ on his own motion.

f. An application for a subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda, or other records shall be:

- i. in writing to the ALJ;
- ii. give the name and address of the person or entity upon whom the subpoena is to be served;
- iii. precisely describe the material that is desired to be produced;
- iv. state the materiality thereof to the issue involved in the proceeding; and
- v. include a statement indicating that to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

3. The facility has the burden to prove that the imposition of a sanction was erroneous.

4. An audio recording of the hearing shall be made. A transcript will be prepared and reproduced at the request of a party to the hearing, provided he bears the cost of a copy of the transcript.

5. At the conclusion of the hearing, the ALJ may take the matter under submission.

6. Specific written findings as to each issue contested by the facility shall be made.

7. The ALJ has the authority to affirm, reverse, or modify the sanction(s) imposed by the department.

8. The ALJ does not have the authority to:

- a. rescind or amend any violation of federal law, statute or regulation found by DHH on behalf of CMS; or
- b. amend or rescind any violation of state law, statute, rule or manual in an appeal of a civil fine or of any other sanction, except license revocation, suspension and non-renewal.

9. Such findings shall be submitted in writing to the facility at its last known address and to the department and other affected parties.

##### **E. Continuances**

1. A hearing may be continued to another time or place, or a further hearing may be ordered by the ALJ on his own motion or upon showing of good cause, at the request of any party.

2. Where the ALJ determines that additional evidence is necessary for the proper determination of the case, he/she may, at his/her discretion:

a. continue the hearing to a later date and order the party to produce additional evidence; or

b. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence.

3. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

4. Written notice of the time and place of a continued or further hearing shall be provided to each party, except that when a continuance of further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.

F. If a facility representative fails to appear at a hearing, the appeal may be dismissed and the departmental findings made final. A copy of the decision shall be mailed to each party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **Subchapter D. Enforcement of Sanctions**

##### **§4651. Enforcement of Sanctions/Collection of Fines**

A. The decision to impose a sanction(s), except those classified as immediate, is final when:

1. an administrative appeal is not requested within the specified time limit;

2. the facility agrees to pay the fine or to comply with the sanction;

3. the administrative appeal affirms the department's fine or sanction and the time for seeking judicial review has expired; or

4. the judicial review or appeal affirms the fine or sanction and the deadline for seeking further review expires.

B. Civil Fines. When a fine becomes final, the facility shall do one of the following:

1. make payment in full within 10 days of the date the fine becomes final; or

2. request a payment schedule, in light of a documented hardship, within 10 calendar days of the fine becoming final.

C. Interest shall begin to accrue, at the current judicial rate, on the day following the date on which any fine becomes due and payable.

D. Failure to Make Payment of Assessed Fines. When the assessed fine is not received within the prescribed time period and the facility has not arranged for a payment schedule, the department may:

1. deduct the full amount with accrued interest from funds otherwise due to a Medicaid provider as Medicaid reimbursement; or

2. institute civil action as necessary to collect the fines due if the provider is not a Medicaid provider.

E. The facility is prohibited from:

1. claiming imposed fines and/or interest as reimbursable costs to Medicaid or Medicare; and

2. increasing charges to clients as a result of civil fines and/or interest imposed by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### **Subchapter E. Funds**

##### **§4661. Nursing Home Residents' Trust Fund**

A. The department shall deposit civil fines and the interest collected from nursing homes into the Nursing Home Residents' Trust Fund, hereafter referred to as Trust Fund.

B. The secretary shall administer the Trust Fund.

C. The monies in the Trust Fund shall be subject to annual appropriation and shall be used solely as mandated by the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) for any of the following purposes:

1. to protect the health or property of residents of nursing homes which the department finds deficient;

2. to pay for the costs of relocation of residents to other facilities;

3. to maintain operation of a facility pending correction of deficiencies or closure;

4. to reimburse residents for personal funds lost;

5. to allow the department to use the funds for education to improve the health and welfare of residents;

6. to reimburse a nursing home(s) for evacuation expenses, subject to approval by the federal government; and

7. any other purpose approved by CMS.

D. Request for monies from the Trust Fund shall be made in writing to the department. All expenditures are subject to the approval of CMS.

E. Monies from the Trust Fund shall be utilized only to the extent that private or public funds, including funds available under Title XVIII and Title XIX of the Social Security Act, are not available or are not sufficient to meet the expenses of the facility.

F. The department is hereby authorized to enter into cooperative endeavor agreements with public and private entities for the approved expenditure of monies in the Trust Fund that achieve the purpose of the fund.

G. The existence of the Trust Fund shall not make the department responsible for the maintenance of residents of a nursing home facility or maintenance of the facility itself.

H. The department has the discretion to require repayment of a disbursement from the Trust Fund.

1. If required, the terms of repayment of monies disbursed shall be determined by the secretary and may, where appropriate, be set forth in a contract signed by the secretary and the applicant or other party responsible for repayment.

2. Failure to repay the funds according to the established terms of repayment shall preclude future disbursements to the applicant from the Trust Fund until all monies are repaid.

3. Monies due and owing to reimburse the Trust Fund shall accrue interest at the current judicial interest rate.

4. If a nursing home fails to repay the funds according to the established terms of repayment, the department may recoup the amount of disbursement not repaid by a nursing home from the nursing home's Medicaid payments or from any other payments owed to the nursing home from the department.

5. All monies collected pursuant to a repayment agreement or by recoupment shall be treated in the same manner as a collected civil fine.



AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**§4663. Health Care Facility Fund**

A. The civil fines and interest collected from health care facilities, other than nursing homes, shall be deposited into the Health Care Facility Fund, hereafter referred to as Trust Fund.

B. The department has the exclusive use of the funds contained in the Trust Fund.

C. The monies in the Trust Fund shall be subject to annual appropriation by the legislature and shall be used exclusively for the following purposes:

1. the protection of health, welfare, rights or property of those receiving services from health care facilities;
2. the enforcement of sanctions against health care facilities;
3. the education, employment and training of employees, staff or other personnel of health care facilities; and/or
4. programs designed to improve the quality of care in health care facilities.

D. The Health Care Facility Fund may not be used to fund re-occurring programs.

E. The department is hereby authorized to enter into cooperative endeavor agreements with public and private entities for the approved expenditure of monies in the Trust Fund that achieve the purpose of the fund.

F. The department has the discretion to require repayment of a disbursement from the Trust Fund.

1. If required, the terms of repayment of monies disbursed shall be determined by the secretary and may, where appropriate, be set forth in a contract signed by the secretary and the applicant or other party responsible for repayment.

2. Failure to repay the funds according to the established terms of repayment shall prevent future disbursements to the applicant from the Trust Fund until all monies are repaid.

3. Monies due and owing according to the established terms of repayment shall accrue interest at the current judicial interest rate.

4. If a facility fails to repay the funds according to the established terms of repayment, the department may recoup the amount of disbursement not repaid by a facility from the facility's Medicaid payments or from any other payments owed to the facility from the department.

5. All monies collected pursuant to a repayment agreement or by recoupment shall be treated in the same manner as a collected civil fine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. Administration**

**Subpart 7. Sanctions**

**Chapter 55. Health Care Facility Sanctions**

**§5501. General Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), LR 26:1448 (July 2000), repealed LR 39:

**§5503. Description of Violation and Applicable Civil Fines**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), amended LR 26:1448 (July 2000), LR 31:1590 (July 2005), repealed LR 39:

**§5505. Notice and Appeal Procedure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), LR 26:1449 (July 2000), repealed LR 39:

**§5507. Collection of Fines**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2199.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:37 (January 1985), amended LR 11:770 (August 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:189 (February 1992), amended LR 26:1450 (July 2000), repealed LR 39:

**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.

**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2013 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.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Health Care Facility Sanctions**

**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 13-14. It is anticipated that \$4,100 (\$2,050 SGF and \$2,050 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 13-14. It is anticipated that \$2,050 will be collected in FY 13-14 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 repeals and replaces the provisions governing health care facility sanctions and includes provisions for the administration of the Nursing Home Residents' Trust Fund and the Health Care Facility Fund in order to incorporate these provisions under a single comprehensive Rule in Part I, Title 48 of the Louisiana Administrative Code. It is anticipated that implementation of this proposed Rule will not have economic cost or benefits to directly affected persons or non-governmental groups for FY 13-14, FY 14-15 and FY 15-16.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This Rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1308#089

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Inpatient Hospital Services  
Neonatal and Pediatric Intensive Care Units and  
Outlier Payment Methodologies  
(LAC 50:V.953-954 and 967)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.953-954 and §967 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 inpatient hospital services rendered by non-rural, non-state hospitals to align the prospective per diem rates more closely with reported costs, including the neonatal intensive care unit (NICU) and pediatric intensive care unit (PICU) rates (*Louisiana Register*, Volume 35, Number 9).

The Department of Health and Hospitals, Bureau of Health Services Financing repromulgated all of the provisions governing outlier payments for inpatient hospital services in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 3).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rates paid for NICU and PICU services rendered by non-rural, non-state hospitals and to revise the outlier payment methodology (*Louisiana Register*, Volume 37, Number 3). The department promulgated an Emergency Rule which amended the March 1, 2011 Emergency Rule governing the reimbursement methodology for inpatient hospital services to revise the formatting of these provisions in order to ensure that the provisions were promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 8). This proposed Rule is being promulgated to continue the provisions of the March 1, 2011 and August 20, 2012 Emergency Rules.

**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. - G. ...

H. Neonatal Intensive Care Units (NICU)

1. - 2. ...

3. Effective for dates of service on or after March 1, 2011, the per diem rates for Medicaid inpatient services rendered by NICU level III and NICU level III regional units, recognized by the department as such on December 31, 2010, shall be adjusted to include an increase that varies based on the following five tiers:

a. tier 1—if the qualifying hospital's average percentage exceeds 10 percent, the additional per diem increase shall be \$601.98;

b. tier 2—if the qualifying hospital's average percentage is less than or equal to 10 percent, but exceeds 5 percent, the additional per diem increase shall be \$624.66;

c. tier 3—if the qualifying hospital's average percentage is less than or equal to 5 percent, but exceeds 1.5 percent, the additional per diem increase shall be \$419.83;

d. tier 4—if the qualifying hospital's average percentage is less than or equal to 1.5 percent, but greater than 0 percent, and the hospital received greater than .25 percent of the outlier payments for dates of service in state fiscal year (SFY) 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$263.33; or

e. tier 5—if the qualifying hospital received less than .25 percent, but greater than 0 percent of the outlier payments for dates of service in SFY 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$35.

4. A qualifying hospital's placement into a tier will be determined by the average of its percentage of paid NICU Medicaid days for SFY 2010 dates of service to the total of all qualifying hospitals' paid NICU days for the same time period, and its percentage of NICU patient outlier payments made as of December 31, 2010 for dates of service in SFY 2008 and SFY 2009 and calendar year 2010 to the total NICU outlier payments made to all qualifying hospitals for these same time periods.

a. This average shall be weighted to provide that each hospital's percentage of paid NICU days will comprise 25 percent of this average, while the percentage of outlier payments will comprise 75 percent. In order to qualify for tiers 1-4, a hospital must have received at least .25 percent of outlier payments in SFY 2008, SFY 2009, and calendar year 2010.

b. SFY 2010 is used as the base period to determine the allocation of NICU and PICU outlier payments for hospitals having both NICU and PICU units.

c. If the daily paid outlier amount per paid NICU day for any hospital is greater than the mean plus one standard deviation of the same calculation for all NICU level III and NICU level III regional hospitals, then the basis for calculating the hospital's percentage of NICU patient outlier payments shall be to substitute a payment amount equal to the highest daily paid outlier amount of any hospital not exceeding this limit, multiplied by the exceeding hospital's paid NICU days for SFY 2010, to take the place of the hospital's actual paid outlier amount.

NOTE: Children's specialty hospitals are not eligible for the per diem adjustments established in §953.H.3.

5. The department shall evaluate all rates and tiers two years after implementation.

I. Pediatric Intensive Care Unit (PICU)

1. - 2. ...

3. Effective for dates of service on or after March 1, 2011, the per diem rates for Medicaid inpatient services rendered by PICU level I and PICU level II units, recognized by the department as such on December 31, 2010, shall be adjusted to include an increase that varies based on the following four tiers:

a. tier 1—if the qualifying hospital's average percentage exceeds 20 percent, the additional per diem increase shall be \$418.34;

b. tier 2—if the qualifying hospital's average percentage is less than or equal to 20 percent, but exceeds 10 percent, the additional per diem increase shall be \$278.63;

c. tier 3—if the qualifying hospital's average percentage is less than or equal to 10 percent, but exceeds 0 percent and the hospital received greater than .25 percent of the outlier payments for dates of service in SFY 2008 and SFY 2009 and calendar year 2010, the additional per diem increase shall be \$178.27; or

d. tier 4—if the qualifying hospital received less than .25 percent, but greater than 0 percent of the outlier payments for dates of service in SFY 2008, SFY 2009 and

calendar year 2010, the additional per diem increase shall be \$35.

4. A qualifying hospital's placement into a tier will be determined by the average of its percentage of paid PICU Medicaid days for SFY 2010 dates of service to the total of all qualifying hospitals' paid PICU days for the same time period, and its percentage of PICU patient outlier payments made as of December 31, 2010 for dates of service in SFY 2008 and SFY 2009 and calendar year 2010 to the total PICU outlier payments made to all qualifying hospitals for these same time periods.

a. This average shall be weighted to provide that each hospital's percentage of paid PICU days will comprise 25 percent of this average, while the percentage of outlier payments will comprise 75 percent. In order to qualify for Tiers 1 through 3, a hospital must have received at least .25 percent of outlier payments in SFY 2008, SFY 2009, and calendar year 2010.

b. SFY 2010 is used as the base period to determine the allocation of NICU and PICU outlier payments for hospitals having both NICU and PICU units.

c. If the daily paid outlier amount per paid PICU day for any hospital is greater than the mean plus one standard deviation of the same calculation for all PICU Level I and PICU Level II hospitals, then the basis for calculating the hospital's percentage of PICU patient outlier payments shall be to substitute a payment amount equal to the highest daily paid outlier amount of any hospital not exceeding this limit, multiplied by the exceeding hospital's paid PICU days for SFY 2010, to take the place of the hospital's actual paid outlier amount.

NOTE: Children's specialty hospitals are not eligible for the per diem adjustments established in §953.I.3.

5. The department shall evaluate all rates and tiers two years after implementation.

J. - N.2.b. ...

3. - 6. Reserved.

O. - Q.1. ...

R. - S. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, 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 (September 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 37:2161 (July 2011), LR 39:

**§954. Outlier Payments**

A. - B. ...

C. To qualify as a payable outlier claim, a deadline of not later than six months subsequent to the date that the final claim is paid shall be established for receipt of the written request for outlier payments.

1. Effective March 1, 2011, in addition to the 6 month timely filing deadline, outlier claims for dates of service on or before February 28, 2011 must be received by the department on or before May 31, 2011 in order to qualify for payment. Claims for this time period received by the department after May 31, 2011 shall not qualify for payment.

D. Effective for dates of service on or after March 1, 2011, a catastrophic outlier pool shall be established with

annual payments limited to \$10,000,000. In order to qualify for payments from this pool, the following conditions must be met:

1. the claims must be for cases for:  
a. children less than six years of age who received inpatient services in a disproportionate share hospital setting; or

b. infants less than one year of age who receive inpatient services in any acute care hospital setting; and

2. the costs of the case must exceed \$150,000.

a. The hospital specific cost to charge ratio utilized to calculate the claim costs shall be calculated using the Medicaid NICU or PICU costs and charge data from the most current cost report.

E. The initial outlier pool will cover eligible claims with admission dates from the period beginning March 1, 2011-June 30, 2011.

1. Payment for the initial partial year pool will be \$3,333,333 and shall be the costs of each hospital's qualifying claims net of claim payments divided by the sum of all qualifying claims costs in excess of payments, multiplied by \$3,333,333.

2. Cases with admission dates on or before February 28, 2011 that continue beyond the March 1, 2011 effective date, and that exceed the \$150,000 cost threshold, shall be eligible for payment in the initial catastrophic outlier pool.

3. Only the costs of the cases applicable to dates of service on or after March 1, 2011 shall be allowable for determination of payment from the pool.

F. Beginning with SFY 2012, the outlier pool will cover eligible claims with admission dates during the state fiscal year (July 1-June 30) and shall not exceed \$10,000,000 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$10,000,000.

G. The claim must be submitted no later than six months subsequent to the date that the final claim is paid and no later than September 15 of each year.

H. Qualifying cases for which payments are not finalized by September 1 shall be eligible for inclusion for payment in the subsequent state fiscal year outlier pool.

I. Outliers are not payable for:

1. transplant procedures; or

2. services provided to patients with Medicaid coverage that is secondary to other payer sources.

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 36:519 (March 2010), LR 39:

### **§967. Children's Specialty Hospitals**

A. - H. ...

I. Children's specialty hospitals are not eligible for the per diem adjustments established in §953.H.3 and §953.I.3.

J. - K. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2562 (November 2010), amended LR 39:

### **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.

### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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 Wednesday, September 25, 2013 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.

Kathy H. Kliebert  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Inpatient Hospital Services Neonatal and Pediatric Intensive Care Units and Outlier Payment Methodologies**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no net programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14 as any potential increase in expenditures in the Hospital Program directly correlates to a reduction in outlier payments by the same amount. It is anticipated that \$984 (\$492 SGF and \$492 FED) will be expended in FY 13-14 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 13-14. It is anticipated that \$492 will be collected in FY 13-14 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the March 1, 2011 and August 20, 2012 Emergency Rules which amended

the provisions governing the reimbursement methodology for inpatient hospital services to adjust the reimbursement rates paid for neonatal and pediatric intensive care unit services rendered by certain non-rural, non-state hospitals, and to revise the outlier payment methodology which offsets the rate adjustment. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state for FY 13-14, FY 14-15, and FY 15-16.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy  
Director  
1308#090

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

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

Nursing Facilities  
Reimbursement Rate Reductions  
(Pre-Rebase) (LAC 50:II.20005)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 nursing facilities to reduce the per diem rates paid to non-state nursing facilities in order to remove the rebased amount and sunset the 2011-2012 nursing facility rate rebasing (*Louisiana Register*; Volume 38, Number 5).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated Emergency Rules which amended the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). As a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-state nursing facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 1, 2012 and September 1, 2012 Emergency Rules.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Medical Assistance Program

#### Subpart 5. Reimbursement

#### Chapter 200. Reimbursement Methodology

#### §20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - I. ...

J. Effective for dates of service on or after July 1, 2012, the average daily rates for non-state nursing facilities shall be reduced by \$4.11 per day of the average daily rate on file as of June 30, 2012 after the sunset of the state fiscal year 2012 rebase and before the state fiscal year 2013 rebase.

K. - L. Reserved.

M. Effective for dates of service on or after September 1, 2012, the average daily rates for non-state nursing facilities shall be reduced by \$13.69 per day of the average daily rate on file as of August 31, 2012 before the state fiscal year 2013 rebase which will occur on September 1, 2012.

N. Reserved.

O. ...

P. Reserved.

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

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

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

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

#### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. She is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2013 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.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Nursing Facilities  
Reimbursement Rate Reductions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund programmatic savings of \$41,558,011 for FY 13-14, \$44,515,268 for FY 14-15 and \$46,100,691 for FY 15-16. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 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 61.48 percent in 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will reduce federal revenue collections by approximately \$70,639,758 for FY 13-14, \$71,048,771 for FY 14-15 and \$72,930,270 for FY 15-16. It is anticipated that \$164 will be expended in FY 13-14 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 61.48 percent in 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the July 1, 2012, July 20, 2012 and September 1, 2012 emergency rules which amended the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the reimbursement rates (approximately 6,550,000 nursing home days per year). It is anticipated that implementation of this proposed Rule will reduce program expenditures in the Medicaid Program by approximately \$112,198,097 for FY 13-14, \$115,564,039 for FY 14-15 and \$119,030,961 for FY 15-16.

**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 negative effect on employment as it will reduce the payments made to nursing facilities. The reduction in payments may adversely impact the financial standing of nursing facilities and could possibly cause a reduction in employment opportunities

J. Ruth Kennedy  
Medicaid Director  
1308#092

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Nursing Facilities  
Reimbursement Rate Reductions (Post-Rebase)  
(LAC 50:II.20005)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 nursing facilities to reduce the per diem rates paid to non-state nursing facilities in order to remove the rebased amount and sunset the 2011-2012 nursing facility rate rebasing (*Louisiana Register*; Volume 38, Number 5).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for non-state nursing facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7).

The department promulgated an Emergency Rule which amended the provisions of the July 1, 2012 Emergency Rule governing the SFY 2013 rate reduction to revise the reduction of the per diem rate (*Louisiana Register*, Volume 38, Number 8). In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the department promulgated an Emergency which amended the provisions governing the reimbursement methodology for non-state nursing facilities to further reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 8). This proposed Rule continues the provisions of the July 1, 2012, July 20, 2012 and September 1, 2012 Emergency Rules.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part II. Nursing Facilities**

**Subpart 5. Reimbursement**

**Chapter 200. Reimbursement Methodology**

**§20005. Rate Determination [Formerly LAC 50:VII.1305]**

A. - I. ...

J. Reserved.

K. Effective for dates of service on or after July 1, 2012, the average daily rates for non-state nursing facilities shall be reduced by \$1.15 per day of the average daily rate on file as of June 30, 2012 after the sunset of the state fiscal year 2012 rebase and after the state fiscal year 2013 rebase.

L. Effective for dates of service on or after July 20, 2012, the average daily rates for non-state nursing facilities shall be reduced by 1.15 percent per day of the average daily

rate on file as of July 19, 2012 after the sunset of the state fiscal year 2012 rebase and after the state fiscal year 2013 rebase.

M. Reserved.

N. Effective for dates of service on or after September 1, 2012, the average daily rates for non-state nursing facilities shall be reduced by \$1.91 per day of the average daily rate on file as of August 31, 2012 after the state fiscal year 2013 rebase which will occur on September 1, 2012.

O. ...

P. Reserved.

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

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

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

#### **Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2013 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.

Kathy H. Kliebert  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Reimbursement Rate Reductions (Post-Rebase)**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund programmatic savings of \$8,407,247 for FY 13-14, \$9,005,644 for FY 14-15 and \$9,326,383 for FY 15-16. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 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 61.48 percent in 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will reduce federal revenue collections by approximately \$14,290,618 for FY 13-14, \$14,373,494 for FY 14-15 and \$14,754,130 for FY 15-16. It is anticipated that \$164 will be expended in FY 13-14 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 61.48 percent in 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule continues the provisions of the July 1, 2012, July 20, 2012 and September 1, 2012 emergency Rules governing the reimbursement methodology for non-state nursing facilities and the SFY 2013 rate reduction to further reduce the reimbursement rates (approximately 6,550,000 nursing home days per year). It is anticipated that implementation of this proposed Rule will reduce program expenditures in the Medicaid Program by approximately \$22,698,193 for FY 13-14, \$23,379,138 for FY 14-15 and \$24,080,513 for FY 15-16.

#### **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 negative effect on employment as it will reduce the payments made to nursing facilities. The reduction in payments may adversely impact the financial standing of nursing facilities and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1308#093

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Nursing Homes—Licensing Standards  
Sanction Provisions (LAC 48:I.Chapter 97)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal LAC 48:I.9731 and §§9735-9749 in the Medical Assistance Program as authorized by R.S. 36:254. 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 promulgated a Rule governing the minimum licensing standards for nursing facilities to revise the appeals and monetary penalties provisions to allow nursing facilities that have received fines to waive its administrative appeal rights in order to receive a reduction in the amount of the fine (*Louisiana Register*, Volume 38, Number 3).

The department promulgated a Notice of Intent to repeal and replace the provisions governing health care facility sanctions and include provisions for the administration of the Nursing Home Residents' Trust Fund and Health Care Facility Fund in order to incorporate these provisions under a single comprehensive Rule in Part I, Title 48 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 39, Number 8).

As a result of the promulgation of the August 20, 2013 Notice of Intent, the Department of Health and Hospitals, Bureau of Health Services Financing now proposes to repeal the sanctions and appeals provisions from the nursing facilities licensing standards since these provisions will now be incorporated into the Health Care Facility Rule being promulgated in Part I, Chapter 46 of Title 48.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 97. Nursing Facilities

#### Subchapter B. Organization and General Services

#### §9731. Complaint Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 34:2403 (November 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### Subchapter C. Resident Rights

#### §9735. Authority and Scope

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:52 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### §9737. Considerations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:52 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### §9739. Repeat Violations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:53 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### §9741. Notice and Appeal Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:53 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### §9743. Civil Money Penalties (Fines)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:54 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### §9745. Classes of Violations Defined

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:54 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### §9747. Collection of Civil Fines Assessed

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:54 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### §9749. Revocation of License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:54 (January 1998), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:

#### 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.

**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She 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 Wednesday, September 25, 2013 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.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nursing Homes—Licensing Standards  
Sanction Provisions**

**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 13-14. It is anticipated that \$492 (SGF) will be expended in FY 13-14 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.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed Rule repeals the sanctions and appeals provisions from the licensing standards governing nursing facilities since these provisions were incorporated into the August 20, 2013 Notice of Intent which proposes to promulgate these provisions under a single comprehensive Health Care Facility Sanction Rule in Part I of Title 48. It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state for FY 13-14, FY 14-15, and FY 15-16.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This Rule has no known effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1308#091

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

Fees (LAC 43:XIX.701, 703, 705, and 707)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, as amended, the Office of Conservation proposes to amend LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed action will adopt Statewide Order No. 29-R-13/14 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-12/13.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**

**Subpart 2. Statewide Order No. 29-R**

**Chapter 7. Fees**

**§701. Definitions**

\* \* \*

*BOE*—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 26.0.

*Capable Gas*—natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue, as of December 31, 2012.

*Capable Oil*—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue, as of December 31, 2012.

\* \* \*

*Production Well*—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells or incapable oil wells or incapable gas wells certified by the Severance Tax Section of the Department of Revenue, as of December 31, 2012.

*Regulatory Fee*—an amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on class II wells, class III wells, storage wells, type A facilities, and type B facilities in an amount not to exceed \$875,000 for fiscal year 2000-2001 and thereafter. No fee shall be imposed on a class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Section of the Department of Revenue as of December 31, 2012, and located in the same field as such class II well. Operators of record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters,

and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:

**§703. Fee Schedule for Fiscal Year 2013-2014**

A. ...

\* \* \*

**B. Regulatory Fees**

1. Operators of each permitted type A facility are required to pay an annual regulatory fee of \$6,360 per facility.

2. Operators of each permitted type B facility are required to pay an annual regulatory fee of \$3,180 per facility.

3. Operators of record of permitted non-commercial class II injection/disposal wells are required to pay \$641 per well.

4. Operators of record of permitted class III and storage wells are required to pay \$641 per well.

C. Class I Well Fees. Operators of permitted class I wells are required to pay \$10,810 per well.

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0	15
Tier 2	1-5,000	79
Tier 3	5,001-15,000	225
Tier 4	15,001-30,000	373
Tier 5	30,001-60,000	568
Tier 6	60,001-110,000	816
Tier 7	110,001-9,999,999	1,013

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:

**§705. Failure to Comply**

A. Operators of operations and activities defined in §701 are required to timely comply with this order. Failure to comply by the due date of any required fee payment will subject the operator to civil penalties provided in title 30 of the Louisiana Revised Statutes of 1950, including but not limited to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2501 (November 2003), LR 34:2406 (November 2008), LR 36:2569 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:

**§707. Severability and Effective Date**

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-13/14 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-13/14) supersedes Statewide Order No. 29-R-12/13 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:

**Family Impact Statement**

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The proposed Rule will have no effect on the stability of the family.

2. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rule will have no effect on the functioning of the family.

4. The proposed rules will have no effect on family earnings and family budget.

5. The proposed rules will have no effect on the behavior and personal responsibility of children.

6. The proposed rules will have no effect on the ability of the family or local government to perform any function as contained in the proposed rules.

### Poverty Impact Statement

In accordance with R.S. 49:973, the following statements are submitted after consideration of the impact of the proposed Rule amendments at LAC 43:XIX.107 on poverty as defined therein.

1. The proposed Rule amendment will have no effect on household income, assets, and financial security.
2. The proposed Rule amendment will have no effect on early childhood development and preschool through postsecondary education development.
3. The proposed Rule amendment will have no effect on employment and workforce development.
4. The proposed Rule amendment will have no effect on taxes and tax credits.
5. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Statement

In accordance with R.S. 49:965.6, the Department of Natural Resources, Office of Conservation has determined that these amendments will have no estimated effect.

### Public Comments

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Friday, September 27, 2013. Comments should be in writing to Todd Keating, Director, Engineering Division, Office of Conservation, P.O. Box 94275, Capitol Station, Ninth Floor, Baton Rouge, LA 70804-9275 (Re: Docket No. 13-248 Proposed Statewide Order No. 29-R-13/14).

### Public Hearing

A public hearing will be held at 9 a.m., Tuesday, September 24, 2013, in the LaBelle Hearing Room, located on the first floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fees

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to the state or local governmental units as a result of the proposed Rule changes. The proposed Rule provides for changes in the Office of Conservation's General Operations Statewide Order No. 29-R. The proposal provides for changes in the definitions, the fee schedule and the severability and effective date. Changes to the definitions include: (1) changing the annual barrels of oil equivalent (BOE) from 19.0 to 26.0, based on a three year average (FY 10, FY 11, FY 12) of the cost of oil and gas; and (2) changing the date in capable gas definition, capable oil definition, production well definition and regulatory fee definition from December 31, 2011 to December 31, 2012. The Rule change also increases the fee for most annual regulatory fees and all annual production fees. Annual regulatory fees are increased as follows: (1) Operators of Type A facility from \$6,220 to \$6,360; (2) Operators of Type B facility from \$3,110 to \$3,180; (3) Operators of record of permitted non-commercial Class II injection/disposal wells from \$627 to \$641; (4) Operators of record of permitted Class

III storage wells from \$627 to \$641. The fee for operators of permitted Class I wells will not change. The per well annual production fees for operators of capable oil wells and capable gas wells are increased as follows: Tier 1 from \$13 to \$15; Tier 2 from \$70 to \$79; Tier 3 from \$199 to \$225; Tier 4 from \$332 to \$373; Tier 5 from \$523 to \$586; Tier 6 from \$726 to \$816; and Tier 7 from \$897 to \$1,013. The severability and effective date of the proposed Rule is November 20, 2013.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is a minimal anticipated effect on revenue collections of state governmental units as a result of the Rule changes. Fee increases are offset by the reduced number of wells such that total collections are only minimally impacted. The reduction in the number of wells is due to an increase in the number of wells classified as incapable or as a stripper well. These types of wells are not assessed an annual production fee. The agency will retain the maximum revenue caps authorized by R.S. 30:21 et seq. No effect on revenue collections of local governmental units is anticipated.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Due to a reduction in the number of wells, most operators will pay more for the annual regulatory fee and all well operators will pay more for the well production fee. Annual regulatory fees are increased as follows: (1) Operators of Type A facility - \$140 ; (2) Operators of Type B facility - \$70; (3) Operators of record of record of permitted non-commercial Class II injection/disposal wells - \$14; (4) Operators of record of permitted Class III storage wells - \$14. The fee for operators of permitted Class I wells will not change. The per well annual production fees for operators of capable oil wells and capable gas wells are increased as follows: Tier 1 - \$2; Tier 2 - \$9; Tier 3 - \$26; Tier 4 - \$41; Tier 5 - \$63; Tier 6 - \$90; Tier 7 - \$116.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of the proposed Rule changes will have no impact on competition and employment in the public and private sector.

Gary P. Ross  
Assistant Commissioner  
1308#047

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

Reduction of Paperwork required under Statewide Order  
No. 29-B (LAC 43:XIX.609, 613, and 619)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43: XIX.609, 613, and 619 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The current regulations pertaining to the Act 312 hearings as implemented under statewide order 29-B require the participants to submit at least three hard copies of all plans documents and exhibits as well as an acceptable electronic version. In conducting Act 312 public hearings, Office of Conservation staff has determined that only one hard copy is necessary. The amendment is being proposed to reduce the number of hard copies submitted to one.

**Title 43**  
**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations**

**Subpart 1. Statewide Order No. 29-B**

**Chapter 6. Procedures for Hearings and the Submission and Approval of Plans for the Remediation of E and P Sites in Accordance with R.S. 30:29**

**§609. General Requirements of Plans**

A. Plans shall be filed within the time limit set by the court and shall be filed with the commissioner. A copy shall be mailed or delivered to each party. Any party submitting a plan shall submit at least one hard copy of the technical data and plan, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, plans shall include the information required by §615 and shall include or be accompanied by the following:

A.1. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:661 (April 2007), amended LR 39:

**§613. General Requirements of Comments and Responses**

A. Comments or responses shall be filed within the time limit set by the court and shall be filed with the commissioner and the court with a copy to each party. Any party filing a comment or response shall submit to the commissioner of conservation at least one hard copy of the comment or response and any data utilized as provided in §617, as well as an acceptable electronic copy to the commissioner. In addition to outlining the purpose thereof, the comments or responses shall, in addition to the information required by §615 include or be accompanied by the following:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007), amended LR 39:

**§619. Revisions to Plans, Comments or Responses Thereto**

A. If, after any plan, comment or response is filed, such plan, comment or response is revised, the party revising the plan, comment or response shall promptly notify the commissioner and all parties to whom the plan, comment or response was sent, of the revision. The revising party shall furnish the commissioner at least one hard copy and one acceptable electronic copy of the data and revised plan, comment or response, and any technical data used to support the revision. The revising party shall also provide the court and all parties a copy of any revised plan, comment or response and any technical data used to support the revision. The revising party shall, if requested by the commissioner, participate in an additional commissioner's conference to discuss the revised plan, comment or response prior to the hearing. No revised plan, comment or response may be considered at the hearing unless notice of the revision has been sent to the commissioner, the court and to all parties to whom the legal notice is required at least 10 days prior to the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 33:662 (April 2007), amended LR 39:

**Family Impact Statement**

In accordance with R.S. 49:972, the following statements are submitted after consideration of the impact of the proposed Rule amendments on family as defined therein.

1. The proposed Rule amendment will have no effect on the stability of the family.

2. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed Rule amendment will have no effect on the functioning of the family.

4. The proposed Rule amendment will have no effect on family earnings and family budget.

5. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed Rule amendment.

**Poverty Impact Statement**

In accordance with R.S. 49:973, the following statements are submitted after consideration of the impact of the proposed Rule amendments on child, individual, or family poverty in relation to individual or community asset development.

1. The proposed Rule amendment will have no effect on household income, assets, and financial security.

2. The proposed Rule amendment will have no effect early childhood development and preschool through postsecondary education development.

3. The proposed Rule amendment will have no effect on employment and workforce development.

4. The proposed Rule amendment will have no effect on taxes and tax credits.

5. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

In accordance with R.S. 49:965.6, the Department of Natural Resources, Office of Conservation has determined that these amendments will have no estimated effect on small businesses.

**Public Comments**

Written comments will be accepted until 4:30 p.m., October 3, 2013, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2013-02 on all correspondence. All inquiries should be directed to John Adams at the above addresses or by phone to (225) 342-7889. No preamble was prepared.

**Public Hearing**

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at the public hearing in accordance with R.S. 49:953. The commissioner of conservation will conduct a public hearing at 9 a.m., September 26, 2013, in the LaBelle Room located

on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Reduction of Paperwork  
required under Statewide Order No. 29-B**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no estimated implementation costs or savings to the state or local governmental units as a result of the proposed rule change that reduces the number of hard copies (from three to one) to be submitted by participants in conjunction with Act 312 (of 2006 Regular Legislative Session) public hearings. Act 312 public hearings provide procedures for remediation of oilfield sites and exploration and production sites to property under the jurisdiction of the Department of Natural Resources Office of Conservation. The proposed rule change pertaining to Act 312 public hearings requires participants to submit at least one hard copy of all plans, documents and exhibits as opposed to three.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated effect on revenue collections of state or local governmental units resulting from the proposed rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Implementation of the proposed rule change may result in a minimal savings since participants will no longer be required to submit three hard copies of all plans, documents and exhibits in conjunction with Act 312 public hearings.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition and employment as a result of the proposed rule change.

James H. Welsh  
Commissioner  
1308#058

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Commercial Driver's License  
(LAC 55:III.103, 107, 117, and 119)

In accordance with the provisions of R.S. 32:408-863, relative to the authority of the Office of Motor Vehicles to adopt rules regarding third-party testers and examiners for commercial driver's licenses, the Office of Motor Vehicles hereby proposes to amend and to adopt LAC 55:III, Chapter 1, Subchapter A, §103.C.6, E, and G.1, §107.A.6, §117.C.1, and §119.A.10 to update the rules regarding skills tests and the requirements applicable to third party testers and examiners.

**Title 55  
PUBLIC SAFETY  
Part III. Motor Vehicles**

**Chapter 1. Driver's License  
Subchapter A. General Requirements  
§103. Examinations and Skills Tests**

A. - C.5. ...

6. If the applicant performs the skills test in a vehicle not equipped with airbrakes, and is issued a commercial driver's license, the airbrake restriction shall be indicated on said license. If the applicant performs the skills test in a vehicle equipped with partial airbrakes (air over hydraulics), and is issued a commercial driver's license, the "no full airbrake" restriction shall be indicated on said license.

D. - D.4. ...

E. Except as otherwise provided herein, a person shall not drive a commercial motor vehicle unless he first successfully completed a skills test and has been issued a certificate, or other proof of successful completion of a skills test, of successful completion of a skills test in accordance with this Section.

F. - F.2.b. ...

G. The Office of Motor Vehicles shall provide a skills test grading sheet on a form to be designated by it upon which the examiner shall rate the performance of the applicant who takes the skills test for each operation or activity which is a part of the test. The examiner shall require the applicant to sign the test form at the beginning of the skills test and shall state the date and time upon which the test was administered.

1. If the applicant attains a passing score of 80 percent or better on the skills test, the Office of Motor Vehicles, or the designated third-party examiner, shall issue proof of successful completion in a manner prescribed by the Office of Motor Vehicles.

G.2. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1090 (December 1989), amended LR 24:2312 (December 1998), LR 39:

**§107. Knowledge and Skills Test for Endorsements to a Commercial Driver's License**

A. - A.5. ...

6. School Bus. In order to obtain a school bus endorsement, an applicant must satisfactorily demonstrate the additional knowledge and test requirements set forth below:

a. An applicant for the school bus endorsement must satisfy the following three requirements:

i. qualify for a passenger vehicle endorsement. Pass the knowledge and skills test for obtaining a passenger vehicle endorsement;

ii. knowledge test. Must have knowledge covering the following topics:

(a). loading and unloading children, including the safe operation of stop signal devices, external mirror systems, flashing lights, and other warning and passenger safety devices required for school buses by state of federal law or regulation;

(b). emergency exits and procedures for safely evacuating passengers in an emergency;

(c). state and federal laws and regulations related to safely traversing railroad-highway rail grade crossings; and

(d). operating practices and procedures not otherwise specified;

iii. skills test. Must take a driving skills test in a school bus of the same vehicle group as the school bus applicant will drive. If applying for a passenger and school bus endorsement, a skills test in a school bus will satisfy the required skills test listed in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1092 (December 1989), amended LR 24:2313 (December 1998), LR 39:

### **§117. Third-Party Testers**

A. - B. ...

C.1. All applicants for certification as third-party testers, as well as all persons certified as third-party testers, shall permit an employee or other representative of the department to monitor or audit the applicant's or third-party tester's records or skills testing operations during the hours of 8 a.m.-4:30 p.m. Monday-Friday, or at any other time the third-party tester is normally open for business or an examiner employed by the third-party tester is administering knowledge or skills tests for endorsements to a commercial driver's license. The applicant or third-party tester, including any of its employees, officers, or directors, shall immediately make available, to the employee or representative of the department conducting the audit, the records required to be kept by LAC 55, Part III, Chapter 1, Subchapter A, or the third-party tester agreement unless the applicant or third-party tester certifies, in writing, that the records sought are in use at that time, in which case the records shall be made available by 4:30 p.m. on the following day.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 15:1093 (December 1989), amended LR 24:2314 (December 1998), LR 39:

### **§119. Third-Party Examiners**

A. - A.9. ...

10. must maintain a valid email account and have access to the internet, to interact with certain online systems.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408, 15:587.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of Motor Vehicle, 1974, promulgated and amended by the Department of Public Safety and Corrections, Office of

Motor Vehicles, LR 15:1094 (December 1989), amended LR 24:2315 (December 1998), amended LR 39:

### **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. 40:1730.23.

### **Poverty Impact Statement**

The proposed Rule amends LAC 55:III.103, 107, 117, and 119. These Rule changes should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Small Business Statement**

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.

### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than September 16, 2013, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6103, fax: (225) 925-3974, or [stephen.quidd@dps.la.gov](mailto:stephen.quidd@dps.la.gov).

### **Public Hearing**

A public hearing is scheduled for September 26, 2013, at 10 a.m. at 7979 Independence Blvd., Suite 301, Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux  
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Commercial Driver's License**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs or savings to state or local governmental units resulting from the proposed Rule changes. The proposed Rule change will affect the commercial driver's license program and will bring the Louisiana Office of Motor Vehicles and licensed commercial third party testers into compliance with federal Rules. The Rule changes include "no full airbrake" licenses for skills tests completed on vehicles with partial airbrakes, school bus endorsements, and third party testers maintaining a valid e-mail address and internet access to interact with online systems.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections of state or local governmental units as a result of this Rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no anticipated effect on costs or economic benefits to directly affected persons or non-governmental groups. The requested Rule changes are being made to align administrative code with the current testing and training curriculum and have no financial implications.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule change will not impact competition and employment. The requirements are uniformly applied statewide.

Jill P. Boudreaux  
Undersecretary  
1308#097

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

**Compulsory Insurance  
(LAC 37:VII.123 and 129; LAC 55:III.1717)**

In accordance with the provisions of R.S. 32:863, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles hereby proposes to repeal LAC 37:VII, Chapter 1, Subchapter B, §123 and §129, and to adopt LAC 55:III, Chapter 17, Subchapter A, §1717, to update the Rule on the collection of the administrative fee under the compulsory insurance law for failure to maintain the required liability insurance as is reflected current law. The previous law tied the collection of the administrative fee to the driver's license while current law ties the administrative fee to the reinstatement of the vehicle registration privileges.

**Title 37  
INSURANCE**

**Part VII. Motor Vehicles**

**Chapter 1. Insurance**

**Subchapter B. Compulsory Motor Vehicle Liability Security**

**§123. Maintenance of Compulsory Motor Vehicle Liability Security**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:861.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 4:297 (August 1978), repealed by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 39:

**§129. Compulsory Insurance Hardship License**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:863.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:602 (September 1986), amended 13:667 (November 1987), repealed LR 39:

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 17. Compulsory Insurance**

**Subchapter A. General**

**§1717. Owner and Driver Compliance**

A. Each person who applies for registration of a motor vehicle, or applies for a driver's license, shall declare, in writing, on a form provided by the department that all motor vehicles registered in such person's name are covered by security as required by R.S. 32:861, and that such person intends to maintain said security at all times while said vehicle is used upon the highways of Louisiana.

B. In accordance with R.S. 32:863(D)(5), the department shall collect an administrative fee of \$25 to offset the administrative costs of the department whenever an individual reinstates his registration privileges after such registration privileges were revoked in connection a reported cancellation of a motor vehicle liability insurance policy in accordance with R.S. 32:863(A)(3)(a).

1. This administrative fee shall be in addition to the reinstatement fee required by R.S. 32:863(A)(3)(a).

2. The administrative fee shall be collected for each reported insurance cancellation when the registration privileges are reinstated even if multiple cancellations on one or more vehicles are being reinstated at one time.

3. No administrative fee will be collected if the owner submits proof satisfactory to the department that there was no lapse in coverage or the person provides proof satisfactory to the department that such person sold or otherwise transferred the vehicle prior to the date the motor vehicle liability insurance was cancelled.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:862 and 32:863.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 39:

**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.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

#### **Poverty Impact Statement**

The proposed Rule amends LAC 55:III.325. These Rule changes should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

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.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than September 16, 2013, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6103, Fax:(225) 925-3974, or [stephen.quidd@dps.la.gov](mailto:stephen.quidd@dps.la.gov).

#### **Public Hearing**

A public hearing is scheduled for September 26, 2013, at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux  
Undersecretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Compulsory Insurance**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed Rule change is not anticipated to result in state or local government costs or savings. The proposed Rule change updates the Rule regarding the collection of the \$25 administrative fee for the reinstatement of registration privileges after a lapse in insurance coverage to reflect current procedures for the assessment of the fee. This also repeals old provisions which are no longer consistent with statutory authority.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections of state or local governmental units as a result of this Rule change. The \$25 administrative fee is currently being collected and the Rules are being updated to match current statute.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no anticipated costs or economic benefits to vehicle owners regarding compliance with the compulsory insurance law.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule changes will not affect competition and employment.

Jill Boudreaux  
Undersecretary  
1308#098

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

#### **Orleans Parish Hunting Closure (LAC 76:III.320)**

The Wildlife and Fisheries Commission does hereby repeal the rule closing all hunting or shooting by any means or device in Orleans Parish.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part III. Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves, Wildlife Management Areas, Refuges and Conservation Areas**

#### **§320. Orleans Parish Closure**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 and 115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:208 (February 1991), repealed LR 39:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### **Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as



defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through 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.

#### Public Comments

Interested persons may submit comments relative to the proposed Rule to Tommy Tuma, Wildlife Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 or via email to [tuma@wlf.la.gov](mailto:tuma@wlf.la.gov) prior to Thursday, November 7, 2013.

Billy Broussard  
Vice-Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Orleans Parish Hunting Closure

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change will have no anticipated implementation costs to state or local governmental units.

The proposed Rule repeals the State of Louisiana's restriction on hunting in Orleans Parish. It does not affect local or parish regulations against shooting of firearms in Orleans Parish.

Under the proposed Rule, the decision whether to allow or disallow hunting within Orleans Parish would be left entirely to the discretion of local or Orleans Parish authorities.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule is expected to have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is expected to have no effect on competition or employment.

Bryan McClinton  
Undersecretary  
1308#066

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Recreational Offshore Landing Permit (LAC 76:VII.377)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.377, modifying existing recreational offshore landing permit regulations. Authority for adoption of this Rule is included

in R.S. 56:6(34). Said Rule is attached to and made part of this Notice of Intent.

### Title 76

### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery §377. Recreational Offshore Landing Permit

A. Any person possessing any one of the following fish species or species groups on board a vessel taken from within or without Louisiana territorial waters shall be required to have obtained and have in their immediate possession a recreational offshore landing permit. The recreational offshore landing permit shall be available for inspection by a duly authorized agent of the department.

##### 1. Highly migratory species:

- a. tunas—bluefin, albacore, yellowfin, skipjack, bigeye, blackfin;
- b. billfish—blue marlin, white marlin, sailfish and longbill spearfish;
- c. swordfish.

##### 2. Reef fish species—any species of:

- a. snapper;
- b. amberjack;
- c. grouper or hind.

##### 3. Pelagics:

- a. any species of dolphinfish;
- b. cobia;
- c. wahoo.

B. Permits may be obtained at no cost from the Department of Wildlife and Fisheries, or authorized method, by persons who hold any valid license authorizing the taking and possessing of saltwater species of fish. Permits shall be valid for the same duration as the license authorizing saltwater fishing privileges. For those licenses that do not have to be renewed every year, the permit shall be valid for one year from the date it was obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(34).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:3249 (December 2012), amended LR 39:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

**NOTICE OF INTENT**

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

**Reef Fish—Harvest Regulations (LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.335, modifying existing reef fish harvest regulations. Authority for adoption of this Rule is included in R.S. 56:6(25)(a), 56:320.2, 56:326.1 and 56:326.3. Said Rule is attached to and made part of this Notice of Intent.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Title 76  
WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery  
§335. Reef Fish—Harvest Regulations**

A. Recreational Bag Limits Regarding the Harvest of Reef Fish—triggerfishes, amberjacks, grunts, wrasses, snappers, groupers, sea basses, tilefishes, and porgies, within and without Louisiana's territorial waters.

Species	Recreational Bag Limits
[See Prior Text in 1-2]	
3. Vermilion snapper, lane snapper, gray triggerfish, almaco jack, goldface tilefish, tilefish, blackline tilefish, anchor tilefish, blueline tilefish	20 per person per day (in aggregate) with not more than 2 gray triggerfish and not more than 10 vermillion snapper per person included in the bag limit
[See Prior Text in 4-8]	

**B. Reef Fish Permits**

1. All persons who do not possess a permit issued by the National Marine Fisheries Service under the federal fishery management plan for the harvest of Gulf of Mexico reef fish resources are limited to the recreational bag limit. To commercially harvest, sell, barter, trade or exchange or possess for commercial purposes all species of reef fish including dwarf sand perch and sand perch, but (excluding queen triggerfish, black seabass, porgies, and grunts) requires a valid federal reef fish vessel permit be on board the vessel and in the immediate possession.

2. For a person aboard a vessel operating as a charter vessel or headboat to fish for, or harvest, or possess, in or from the EEZ, any species of reef fish including dwarf sand perch and sand perch (but excluding queen triggerfish, black seabass, porgies, and grunts) a valid federal charter vessel/headboat reef fish permit must have been issued to the

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.

**Public Comments**

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 or via email to jadriance@wlf.la.gov prior to Wednesday, September 11, 2013.

Billy Broussard  
Vice Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Recreational Offshore Landing Permit**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed Rule change will have no anticipated implementation costs to state or local governmental units.

The proposed Rule adds three types of fish to the list of fish subject to the Recreational Offshore Landing Permit (ROLP) regulation: cobia, wahoo, and any species of dolphinfish. With the proposed change, any person on a trip aboard a charter vessel, who pays a fee for that trip, is not required to have this permit, but the permit is required for the captain of that charter vessel.

The proposed Rule removes language that exempted gray snapper from the requirement for ROLP among other species of snapper. With the proposed Rule change, all species of snapper would be subject to the requirement for a ROLP.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule change is expected to have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Recreational fishermen who pursue gray snapper, cobia, wahoo, and any species of dolphinfish will need to obtain a ROLP which is available at no cost on the Louisiana Department of Wildlife and Fisheries website.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule change is expected to have no effect on competition or employment.

Bryan McClinton  
Undersecretary  
1308#067

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

vessel and must be on board the vessel and in immediate possession.

B.3. - D.7. ...

8. Commercial trip limits shall include those limits listed below. For the purposes of this Rule:

*Trip*—a fishing trip, regardless of the number of days duration, that begins with departure from a dock, berth, beach, seawall or ramp and that terminates with return to a dock, berth, beach, seawall or ramp.

Species or Group	Trip Limit
a. Gray Triggerfish	12 fish
b. Greater Amberjack	2,000 pounds

E. - F. ...

\* \* \*

G. Seasons

1. Seasons for the commercial harvest of reef fish species or groups shall be closed during the periods listed below. Possession of reef fish in excess of the daily bag limit while on the water is prohibited during the specified closed season. Any reef fish harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. This prohibition on sale/purchase does not apply to reef fish that were harvested, landed ashore, sold and purchased prior to the closed season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing reef fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Species or Group	Closed Season
a. Greater Amberjack	March 1-May 31
b. Gray Triggerfish	June 1-July 31 of each year

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag	January 1-June 30 of each year
b. Black, red, yellowfin, and yellowmouth groupers, rock hind, red hind, and scamp	June 1-July 31 of each year
[See Prior Text in c.-d.]	
e. Gray Triggerfish	February 1-March 31 of each year in waters seaward of the 20 fathom boundary

G.3. - H. ...

I.1. Devices

*Circle Hook*—a fishing hook designed and manufactured so that the point is turned perpendicularly back to the shank to form a generally circular or oval shape.

*Dehooking Device*—a device intended to remove a hook embedded in a fish to release the fish with minimum damage.

2. For a person on board a vessel to fish for or possess gulf reef fish in the gulf EEZ, the vessel must possess on board and such person must use the gear as specified below.

a. Non-stainless Steel Circle Hooks. Non-stainless steel circle hooks are required when fishing with natural baits for reef fish.

b. Dehooking Device. At least one dehooking device is required and must be used to remove hooks embedded in gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the gulf reef fish fishery.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1, and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:1454 (June 2012), LR 39:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government,

#### Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through 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.

### Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, or via email to jadriance@wlf.la.gov prior to Wednesday, September 11, 2013.

Billy Broussard  
Vice Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reef Fish—Harvest Regulations

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change will have no anticipated implementation costs to state or local governmental units.

The proposed Rule change establishes creel limits for gray triggerfish among recreational fishermen of two gray triggerfish per person per day and 10 vermilion snapper per person per day within an existing 20-fish per person per day bag limit for “reef fish”, which is an assembly of nine fish species: almaco jack, lane snapper, vermilion snapper, tilefish, anchor tilefish, blackline tilefish, blueline tilefish, goldface tilefish, and gray triggerfish. Previously any fraction of that aggregate limit could be gray triggerfish or Vermilion snapper.

The proposed Rule change also establishes a commercial trip limit of 12 gray triggerfish and 2,000 pounds or greater amberjack and closes commercial and recreational seasons for gray triggerfish from June 1 through July 31 for each year.

The proposed Rule change modifies the recreational closed season for gag to be between January 1 and June 30 instead of November 11 to December 31. It also modifies the recreational closed season for “shallow water grouper” (SWG), an assembly of four grouper species (black grouper, red grouper, yellowfin grouper, and yellowmouth grouper), two species of hind (red hind and rock hind), and scamp between February 1 and March 31 to be only in waters seaward of the 20 fathom boundary.

In addition, the proposed Rule change clarifies language in regulations that require charter vessels and head boats carrying passengers fishing for certain species of reef fish in the Gulf economic exclusive zone (EEZ) to hold a valid Federal Charter Vessel/Head Boat Reef Fish Permit. Furthermore, the proposed Rule change removes an existing requirement that vessels fishing for or possessing reef fish in the EEZ must carry and use a venting tool.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change is expected to have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule change may have a minor negative effect on commercial and recreational fishermen who catch or harvest gray triggerfish or greater amberjack and recreational fishermen who catch or harvest vermilion snapper, black grouper, red grouper, yellowmouth grouper, yellowfin grouper, red hind, rock hind, and scamp.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change is expected to have no effect on competition or employment.

Bryan McClinton  
Undersecretary  
1308#064

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Tripletail—Harvest Regulations (LAC 76:VII.379)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a Rule, LAC 76:VII.379, Tripletail—Harvest Regulations. Authority for adoption of this Rule is included in R.S. R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3, and R.S. 56:320.2(C). Said Rule is attached to and made part of this Notice of Intent.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery

#### §379. Tripletail—Harvest Regulations

##### A. Recreational Take and Possession Limits

1. The recreational bag limit for the possession of tripletail (*Lobotes surinamensis*) whether caught within or without Louisiana waters shall be five fish per person, per day.

##### B. Commercial Take and Possession Limits

1. No person shall take, harvest, land, or possess aboard a harvesting vessel tripletail in excess of a recreational bag limit unless that person is in possession and has in his immediate possession a valid commercial fishing license, commercial gear licenses (if applicable) and a valid commercial vessel license. The holder of such valid commercial licenses (if applicable) shall not take, possess, land, sell, barter, trade or exchange or attempt to take, sell, barter, trade or exchange tripletail, whole or eviscerated, in excess of 100 pounds on any one day or on any trip, or from any trip. For the purposes of this Section:

*Trip*—any fishing trip, regardless of number of days duration, that begins with departure from a dock, berth, beach, shoreline, seawall or ramp.

2. No person aboard any vessel shall transfer or cause the transfer of tripletail between vessels on state or federal waters.

3. No person shall sell, purchase, barter, trade or exchange or attempt to sell, purchase, barter, trade or exchange tripletail, whole or eviscerated, in excess of 100 pounds, except that such limitation shall not apply to the resale of tripletail by a validly licensed wholesale/retail seafood dealer who purchased such tripletail in compliance with the regulations and requirements of this Section and in compliance with other requirements of law.

#### C. Size Limits

1. The recreational and commercial minimum size limit for tripletail (*Lobotes surinamensis*) shall be 18 inches total length.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25) (a), R.S. 56:326.1, R.S. 56:326.3, and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 39:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through 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.

#### Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 or via email to jadriance@wlf.la.gov prior to Wednesday, September 11, 2013.

Billy Broussard  
Vice Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Tripletail—Harvest Regulations

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule change will have no anticipated implementation costs to state or local governmental units.

The proposed Rule change sets minimum recreational and commercial size limits for tripletail of 18 inches total length and establishes a recreational bag limit for the possession of tripletail of five (5) fish per person per day.

In addition, the proposed Rule change establishes a commercial take and possession limit of 100 pounds on any one day or any one trip. The proposed Rule change also forbids the sale, purchase, barter, trade, or exchange of more than 100 pounds of tripletail except by licensed wholesale/retail seafood dealers who purchased tripletail in compliance with the regulations and requirements of this Section and in compliance with other regulations of law.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change is expected to have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Recreational fishermen who pursue tripletail may be slightly affected under the proposed minimum size limit (under 18 inches) or those who occasionally catch a number of tripletail in excess of the proposed bag limit (5 fish per person per day). Available information indicates that approximately 23 % of the tripletail harvested in Louisiana are smaller than the proposed minimum size limit. Approximately 2% of the observed trips landed more than five fish per person.

There may be a minor financial cost among commercial fishermen who incidentally or occasionally catch more than 100 pounds of tripletail on a single commercial fishing trip. The proposed commercial trip limit of 100 pounds would marginally affect an average of approximately five trips per year.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change is expected to have no effect on competition or employment.

Bryan McClinton  
Undersecretary  
1308#065

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Tuna—Harvest Regulations (LAC 76:VII.361)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.361, modifying existing recreational offshore landing permit regulations. Authority for adoption of this Rule is included

in R.S.56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C) and R.S. 56:6(34). Said Rule is attached to and made part of this Notice of Intent.

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery**

**§361. Tuna—Harvest Regulations**

**A. Bag and Possession limits, Recreational**

Species	Bag and Possession Limit
1. Yellowfin Tuna	3 fish per person
2. Bluefin Tuna	1 fish per vessel per year as incidental catch during open seasons.

**B. Size Limits, Recreational and Commercial**

Species	Minimum Size Limit
1. Yellowfin Tuna	27 inches curved fork length (CFL)
2. Bigeye Tuna	27 inches curved fork length (CFL)
3. Bluefin Tuna*	73 inches curved fork length (CFL)

\*The size class of a bluefin tuna found with the head removed shall be determined using pectoral fin curved fork length (PFCFL) multiplied by a conversion factor of 1.35.

**NOTE:**

*Curved Fork Length (CFL)*—the length of a fish measured from the tip of the upper jaw to the fork of the tail along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

*Pectoral Fin Curved Fork Length (PFCFL)*—the length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

C. No person shall take or have in their possession any species of tuna less than the minimum size or in excess of the take or possession limits. The possession limit on tunas applies to tuna taken within or outside Louisiana territorial waters. No person shall transfer or cause the transfer of tuna between vessels on state or federal waters.

**D. Permits**

1. Recreational. Persons aboard a vessel whether within or outside Louisiana territorial waters possessing any of the following tuna species. Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna and albacore are required to have a valid federal recreational tuna permit and a recreational offshore landing permit in their immediate possession on board the vessel.

2. Commercial. Persons harvesting the following tuna species. Atlantic bluefin tuna, yellowfin tuna, bigeye tuna, skipjack tuna and albacore whether within or outside Louisiana state territorial waters for commercial purposes or possessing such tuna species in excess of a recreational take limit are required to have a valid federal commercial tuna permit in their immediate possession on board the vessel. No person shall sell, barter, trade or exchange or attempt to sell, barter, trade or exchange any species of tuna without a valid federal commercial tuna permit. No person shall purchase, barter, trade or exchange or attempt to purchase barter, trade or exchange any species of tuna from any person who harvested tuna without a valid federal commercial tuna permit.

E. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended title 50 and 15, for tunas while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange tunas within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended title 50 and 15 law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C) and R.S. 56:6(34).

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2834 (December 2000), amended LR 27:2269 (December 2001), LR 37:3540 (December 2011), LR 38:1419 (June 2012), LR 39:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

**Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through 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.

**Public Comments**

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 or via email to jadriance@wlf.la.gov prior to Monday, September 9, 2013.

Billy Broussard  
Vice Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Tuna—Harvest Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed Rule change will have no anticipated implementation costs to state or local governmental units.

The proposed Rule change removes language from a section of Title 76 that requires all recreational fishermen who harvest yellowfin tuna to maintain a written harvest report onboard their vessels when in possession of the fish and to report those harvests to the Department. The proposed Rule change also removes language requiring charter vessel captains to use numbered tags provided by the Louisiana Department of Wildlife and Fisheries or to use the aforementioned harvest report required for possession of yellowfin tuna and to provide monthly reports on yellowfin tuna harvested onboard their vessels.

The proposed Rule change removes language that classified the failure to comply with the regulations regarding the required onboard harvest reports for yellowfin tuna as a class one violation.

The proposed Rule change clarifies and amends the language regarding an existing ban on the transfer of tuna between commercial vessels on state or federal waters to include a ban on the transfer of tuna between any type of vessels on state or federal waters.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed Rule change is expected to have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed Rule change may positively affect recreational fishermen who pursue yellowfin tuna, since it reduces the reporting requirement associated with harvesting the species.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule change is expected to have no effect on competition or employment.

Bryan McClinton  
Undersecretary  
1308#068

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Health and Hospitals Office of Public Health

Louisiana Standards for Water Works Construction,  
Operation, and Maintenance Committee

(Legal Notice: Rescheduled Meeting Date)

The Office of Public Health, in accordance with Act 292 of the 2013 Legislative Session, gives notice that the first meeting for Louisiana Standards for Water Works Construction, Operation, and Maintenance Committee has been rescheduled and will now be held from 1 p.m. to 4 p.m. on Wednesday, August 21, 2013, in Room 118 of the Bienville Building, 628 North 4th Street, Baton Rouge, LA. This meeting was originally published in the July 20, 2013, issue of the *Louisiana Register* to be held on Tuesday, August 13, 2013. Persons attending the meeting may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. 6th and N. 5th/North and Main Streets (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. Inquiries regarding this meeting should be addressed to Jake Causey, Chief Engineer, Engineering Services Section, Office of Public Health, Mail Bin # 3, P.O. Box 4489, Baton Rouge, LA 70821-4489; emailed to [jake.causey@la.gov](mailto:jake.causey@la.gov); or faxed to (225) 342-7303.

Note: This Potpourri is being published as a legal notice. Stakeholders and interested parties were notified on August 6, 2013, through an email from Assistant Secretary J.T. Lane about the rescheduling of the meeting. The rescheduled meeting notice was also published on August 6, 2013, to the Department of Health and Hospitals website ([www.dhh.la.gov](http://www.dhh.la.gov)), the Office of Public Health webpage (<http://www.dhh.la.gov/index.cfm/calendar/detail/9580>), and the state's public meeting notice website at: <http://louisiana.gov/>.

Kathy Kliebert  
Secretary

1308#095

## POTPOURRI

### Department of Health and Hospitals Office of Public Health

Special Supplemental Nutrition Program for  
Women, Infants and Children (WIC)

The Office of Public Health, in accordance with federal regulations at 7 CFR 246.4(a)(28)(b), gives notice that the annual Louisiana WIC State Plan is now available to the

public for review and comment. Copies of the plan may be obtained by writing:

Karen A. Chustz, MSW  
Director of Nutrition Services  
Office of Public Health  
P.O. Box 60630  
New Orleans, LA 70160

by telephone: (225)342-8064 or by e-mail at  
[karen.chustz@la.gov](mailto:karen.chustz@la.gov).

Written comments regarding the plan should also be directed to Ms. Chustz. Written comments concerning the WIC state plan are due no later than 4:30 p.m., September 30, 2013, and should be submitted to Karen Chustz at the above address or by fax to (225) 342-8312.

Kathy H. Kliebert  
Secretary

1308#101

## 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
Southern Production Company, Inc	Melville	L	Eddie Fletcher	001	51143
Southwest Natural Production Company	Greenwood-Waskom	S	Sidney L Herold	008	46535
Nacatosh Gas Incorporated	Caddo Pine Island	S	N B Stoer et al	001	24882
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	004	39824
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	001	40530
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	003	40531
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	002	40667
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	006	41385
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	005	41386
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	007	41389
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	008	41451
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	009	41452



Operator	Field	District	Well Name	Well Number	Serial Number
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	010	41453
Nacatosh Gas Incorporated	Caddo Pine Island	S	N B Stoer et al	C-2	53318
Nacatosh Gas Incorporated	Caddo Pine Island	S	N B Stoer et al	C-1	54723
Nacatosh Gas Incorporated	Caddo Pine Island	S	Gault-Robinson	012	146036
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	005	155787
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	001	155788
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	007	156140
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	002	156166
Nacatosh Gas Incorporated	Caddo Pine Island	S	Ivins	001	156167
Nacatosh Gas Incorporated	Caddo Pine Island	S	Ivins	002	156207
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	006	156566
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	003	157543
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	009	157544
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	008	157545
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	004	157546
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley	010	157547
Nacatosh Gas Incorporated	Caddo Pine Island	S	Robertson-Conley	001	159968
Nacatosh Gas Incorporated	Caddo Pine Island	S	Robertson-Conley	002	159969
Nacatosh Gas Incorporated	Caddo Pine Island	S	Strief	002	161733
Nacatosh Gas Incorporated	Caddo Pine Island	S	Strief	001	161754
Nacatosh Gas Incorporated	Caddo Pine Island	S	Strief	003	161755
Nacatosh Gas Incorporated	Caddo Pine Island	S	Howell et al	001	161825
Nacatosh Gas Incorporated	Caddo Pine Island	S	Howell et al	002	161826
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley A	001	190570
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley A	002	192109
Nacatosh Gas Incorporated	Caddo Pine Island	S	J Su51; Conley C	001	192276
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley C	002	229812
Nacatosh Gas Incorporated	Caddo Pine Island	S	Conley C	003	230051
C. L. Morris	Caddo Pine Island	S	Files & Mayfield	B-2	52552
Miles Kernaghan Jr	Caddo Pine Island	S	Barron	001	57286
C. W. Beene-Drilling Co, Inc	Caddo Pine Island	S	Dunham	001	55026
Riemer Calhoun	Converse	S	L B Springer	001	97802
Harcor Exploration Inc.	Frisco	L	Sp C Rb Sue; E Marionneaux	002	209834(29)
Vincent & Welch, Inc. et al	Caddo Pine Island	S	La Real Est and Dev Co	002	51151

James H. Welsh  
Commissioner

1308#026

**POTPOURRI**  
**Department of Natural Resources**  
**Office of the Secretary**  
**Fishermen's Gear Compensation Fund**

Underwater Obstructions—Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 0 claims in the amount of \$0.00 were received for payment during the period July 1, 2013 - July 31, 2013.

There were 0 paid and 0 denied.

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Stephen Chustz  
Secretary

1308#052

**POTPOURRI**  
**Workforce Commission**  
**Office of Workers' Compensation**

Average Weekly Wage Rate

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2013 through August 31, 2014.

This information updates R.S. 23:1202 of the Louisiana Workers Compensation Act.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 1999 - Aug 31, 2000	512.47	384.00	102.00
Sept 1, 2000 - Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001 - Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002 - Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003 - Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004 - Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005 - Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006 - Aug 31, 2007	637.19	478.00	127.00
Sept.1, 2007 - Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008 - Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009 - Aug. 31, 2010	768.83	577.00	154.00
Sept. 1, 2010 - Aug. 31, 2011	772.18	579.00	154.00
Sept. 1, 2011 - Aug. 31, 2012	789.00	592.00	158.00
Sept. 1, 2012 - Aug. 31, 2013	807.07	605.00	161.00
Sept. 1, 2013 - Aug. 31, 2014	825.54	619.00	165.00

Actual wages are to be paid if the wages are less than the minimum.

Approved Mileage Rate as of July 1, 2013 is \$0.51 per mile.

Wes Hataway  
Director

1308#024

**POTPOURRI**

**Workforce Commission  
Office of Workers' Compensation**

Weekly Compensation Benefits Limits

Pursuant to R.S. 23:1202 and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2013 through August 31, 2014.

<b>Average Weekly Wage</b>	<b>Maximum Compensation</b>	<b>Minimum Compensation</b>	<b>Mileage Reimbursement</b>
\$825.54	\$619.00	\$165.00	*.51 cents per mile

\*Effective July 1, 2013 the mileage reimbursement is .51 cents per mile pursuant to R.S. 23:1203(D).

Wes Hataway  
Director

1308#023

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